

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL  
Special District Local  
Laws Code  
Chapter 8508  
11/1/18

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18	SUBCHAPTER A. GENERAL PROVISIONS		
19	<u>Revised Law</u>		
20	Sec. 8508.0001.	DEFINITIONS. In this chapter:	
21	(1)	"Authority" means the Sulphur River Basin	
22		Authority.	
23	(2)	"Basin" means the watersheds of the Sulphur River	
24		inside the authority's territory as defined by Section 8508.0006.	
25	(3)	"Board" means the authority's board of directors.	
26	(4)	"Commission" means the Texas Commission on	
27		Environmental Quality.	
28	(5)	"Development board" means the Texas Water	
29		Development Board.	
30	(6)	"Director" means a board member.	
31	(7)	"Public agency" means any government or	
32		governmental subdivision or agency.	
33	(8)	"State" means the State of Texas or any of its	
34		agencies, departments, boards, political subdivisions, or other	

1 entities.

2 (9) "Waste" means sewage, industrial waste, municipal  
3 waste, recreational waste, agricultural waste, or waste heat.  
4 (Acts 69th Leg., 1st C.S., Ch. 3, Secs. 2(1), (2), (3), (4), (6),  
5 (8), (9), (11); New.)

6 Source Law

7 Sec. 2. In this Act:

8 (1) "Authority" means the Sulphur River  
9 Basin Authority.

10 (2) "Basin" means the watersheds of the  
11 Sulphur River within the boundaries of the authority  
12 as defined in Section 3 of this Act.

13 (3) "Board" means the board of directors  
14 of the authority.

15 (4) "Commission" means the Texas Water  
16 Commission.

17 (6) "Development board" means the Texas  
18 Water Development Board.

19 (8) "Public agency" means any government  
20 or governmental subdivision or agency.

21 (9) "State" means the State of Texas or any  
22 of its agencies, departments, boards, political  
23 subdivisions, or other entities.

24 (11) "Waste" means sewage, industrial  
25 waste, municipal waste, recreational waste,  
26 agricultural waste, or waste heat.

27 Revisor's Note

28 (1) Section 2(4), Chapter 3, Acts of the 69th  
29 Legislature, 1st Called Session, 1985, defines  
30 "commission" to mean the Texas Water Commission. The  
31 name of the Texas Water Commission was changed to the  
32 Texas Natural Resource Conservation Commission by  
33 Section 1.085, Chapter 3, Acts of the 72nd  
34 Legislature, 1st Called Session, 1991. The name of the  
35 Texas Natural Resource Conservation Commission was  
36 changed to the Texas Commission on Environmental  
37 Quality by Section 18.01, Chapter 965, Acts of the 77th  
38 Legislature, Regular Session, 2001. The revised law  
39 is drafted accordingly.

40 (2) Section 2(7), Chapter 3, Acts of the 69th  
41 Legislature, 1st Called Session, 1985, defines  
42 "person." The revised law omits the definition

1 because it duplicates, in substance, the definition of  
2 "person" provided by Section 311.005(2), Government  
3 Code (Code Construction Act). The omitted law reads:

4 (7) "Person" means an  
5 individual, corporation, organization,  
6 public agency, business trust, estate,  
7 trust, partnership, association, and any  
8 other legal entity.

9 (3) Section 2(10), Chapter 3, Acts of the 69th  
10 Legislature, 1st Called Session, 1985, defines "United  
11 States." The revised law omits the definition because  
12 it duplicates, in substance, the definition of "United  
13 States" provided by Section 311.005(9), Government  
14 Code (Code Construction Act). The omitted law reads:

15 (10) "United States" includes  
16 any department, bureau, and other agency of  
17 the United States.

18 (4) The definition of "director" is added to the  
19 revised law for drafting convenience and to eliminate  
20 frequent, unnecessary repetition of the substance of  
21 the definition.

#### 22 Revised Law

23 Sec. 8508.0002. NATURE OF AUTHORITY. The authority is a  
24 conservation and reclamation district created under Section 59,  
25 Article XVI, Texas Constitution. (Acts 69th Leg., 1st C.S., Ch. 3,  
26 Sec. 1(a).)

#### 27 Source Law

28 Sec. 1. (a) Pursuant to Article XVI, Section  
29 59, of the Texas Constitution, a conservation and  
30 reclamation district is created to be known as Sulphur  
31 River Basin Authority.

#### 32 Revisor's Note

33 Section 1(b), Chapter 3, Acts of the 69th  
34 Legislature, 1st Called Session, 1985, provides that  
35 the authority is a governmental agency and a body  
36 politic and corporate. The revised law omits the  
37 provision because it duplicates a portion of Section  
38 59(b), Article XVI, Texas Constitution, which provides

1       that a conservation and reclamation district is a  
2       governmental agency and a body politic and corporate.

3       The omitted law reads:

4               (b) The authority is a governmental  
5       agency and a body politic and corporate.

6                               Revised Law

7       Sec. 8508.0003. PURPOSE OF CHAPTER. The purpose of this  
8       chapter is to authorize the authority to provide for the  
9       conservation and development of this state's natural resources  
10      inside the basin, including:

11              (1) the control, storage, preservation, and  
12      distribution of this state's water for domestic and municipal uses,  
13      industrial uses, irrigation, mining and recovery of minerals, stock  
14      raising, underground water recharge, electric power generation,  
15      navigation, and other beneficial uses and purposes;

16              (2) the reclamation and irrigation of land needing  
17      irrigation;

18              (3) the reclamation and drainage of overflowed land  
19      and other land needing drainage;

20              (4) the maintenance and enhancement of the quality of  
21      the water;

22              (5) the conservation and development of the water;

23              (6) the navigation of inland water; and

24              (7) the provision of systems, facilities, and  
25      procedures for the collection, transportation, handling,  
26      treatment, and disposal of waste. (Acts 69th Leg., 1st C.S., Ch. 3,  
27      Sec. 4.)

28                               Source Law

29       Sec. 4. The purpose of this Act is to authorize  
30      the authority to provide for the conservation and  
31      development of the state's natural resources within  
32      the basin of Sulphur River, including:

33              (1) the control, storage, preservation,  
34      and distribution of the state's water for domestic and  
35      municipal uses, industrial uses, irrigation, mining  
36      and recovery of minerals, stock raising, underground  
37      water recharge, electric power generation,  
38      navigation, and other beneficial uses and purposes;

39              (2) the reclamation and irrigation of land  
40      needing irrigation;

1 (3) the reclamation and drainage of  
2 overflowed land and other land needing drainage;  
3 (4) the maintenance and enhancement of the  
4 quality of the water;  
5 (5) the conservation and development of  
6 the water;  
7 (6) the navigation of inland water; and  
8 (7) the provision of systems, facilities,  
9 and procedures for the collection, transportation,  
10 handling, treatment, and disposal of waste.

11 Revised Law

12 Sec. 8508.0004. FINDING OF BENEFIT. The legislature finds  
13 that all land included in the authority will benefit from the  
14 improvements to be acquired and constructed by the authority.  
15 (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 3(b).)

16 Source Law

17 (b) The legislature finds that all of the land  
18 included in the authority will be benefited by the  
19 improvements to be acquired and constructed by the  
20 authority.

21 Revised Law

22 Sec. 8508.0005. REVIEW SCHEDULE UNDER SUNSET ACT. A review  
23 of the authority under Section 325.025, Government Code, shall be  
24 conducted as if the authority were a state agency scheduled to be  
25 abolished September 1, 2029, and every 12th year after that year.  
26 (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 1A(a) (part).)

27 Source Law

28 Sec. 1A. (a) . . . The review shall be  
29 conducted under Section 325.025, Government Code, as  
30 if the authority were a state agency scheduled to be  
31 abolished September 1, 2029, and every 12th year after  
32 that year.

33 Revisor's Note

34 Sections 1A(a) and (c), Chapter 3, Acts of the  
35 69th Legislature, 1st Called Session, 1985, relate to  
36 a periodic review of the authority by the Sunset  
37 Advisory Commission. Section 1A(a) provides in part  
38 that the authority is subject to limited review under  
39 Chapter 325, Government Code, as if it were a state  
40 agency, but may not be abolished under that chapter.  
41 Section 1A(c) provides that the authority must pay the  
42 costs associated with the Sunset Advisory Commission's



1 review of the authority. The revised law omits those  
2 provisions because they duplicate Sections  
3 325.025(a), (b), and (d), Government Code, which  
4 provide that certain river authorities, including the  
5 Sulphur River Basin Authority, are subject to limited  
6 review, but not abolishment, by the Sunset Advisory  
7 Commission under Chapter 325, Government Code, and  
8 that those river authorities shall pay the cost  
9 incurred by the Sunset Advisory Commission in  
10 performing the review. The omitted law reads:

11 (a) The authority is subject to  
12 review under Chapter 325, Government Code  
13 (Texas Sunset Act), but may not be abolished  
14 under that chapter. . . .

15 (c) The authority shall pay the costs  
16 incurred by the Sunset Advisory Commission  
17 in performing the review. The Sunset  
18 Advisory Commission shall determine the  
19 costs, and the authority shall pay the  
20 amount promptly on receipt of a statement  
21 from the Sunset Advisory Commission  
22 detailing the costs.

23 Revised Law

24 Sec. 8508.0006. TERRITORY. (a) Unless modified under  
25 Subchapter J, Chapter 49, Water Code, or other law, the authority's  
26 territory is composed of the territory in each county in Texas,  
27 other than Fannin County, that is located wholly or partly in the  
28 watershed of the Sulphur River and its tributaries with confluences  
29 with the Sulphur River upstream from the eastern boundary of Texas,  
30 as those watersheds and tributaries are defined by maps on file with  
31 the development board.

32 (b) The boundaries of the authority form a closure. A  
33 mistake in the description of the boundaries in the legislative  
34 process or another mistake does not affect:

35 (1) the authority's organization, existence, or  
36 validity;

37 (2) the authority's right to issue any type of bond for  
38 a purpose for which the authority is created or to pay the principal  
39 of or interest on the bond; or

1 (3) the legality or operation of the authority or its  
2 governing body. (Acts 69th Leg., 1st C.S., Ch. 3, Secs. 3(a), 52;  
3 New.)

4 Source Law

5 Sec. 3. (a) The authority is composed of the  
6 territory in each county in Texas, other than Fannin  
7 County, that is located in whole or in part within the  
8 watershed of the Sulphur River and its tributaries  
9 with confluences with the Sulphur River upstream from  
10 the eastern boundary of Texas, as those watersheds and  
11 tributaries are defined by maps now on file with the  
12 development board.

13 Sec. 52. The legislature finds and determines  
14 that the boundaries of the Sulphur River Basin  
15 Authority form a closure. If any mistake is made in  
16 the description of the boundaries in the legislative  
17 process, or a mistake is otherwise made, it in no way  
18 affects the organization, existence, and validity of  
19 the authority, or the right of the authority to issue  
20 any types of bonds, including refunding bonds, for the  
21 purpose for which the authority is created, or to pay  
22 the principal of or interest on the obligations, or in  
23 any other manner affects the legality or operation of  
24 the authority or its governing body.

25 Revisor's Note

26 (1) The revision of the law governing the  
27 authority revises the statutory language describing  
28 the territory of the authority. Because the  
29 authority's boundaries are subject to change, that  
30 description may not be accurate on the effective date  
31 of the revision or at the time of a later reading. For  
32 the reader's convenience, the revised law adds  
33 references to the statutory authority to change the  
34 authority's territory under Subchapter J, Chapter 49,  
35 Water Code, applicable to the authority under Sections  
36 49.001 and 49.002 of that chapter, and to the general  
37 authority of the legislature to enact a law to change  
38 the authority's territory.

39 (2) Section 52, Chapter 3, Acts of the 69th  
40 Legislature, 1st Called Session, 1985, provides that a  
41 mistake in the description of the authority's  
42 boundaries or another mistake does not affect the  
43 right of the authority to issue "any types of bonds,

1 including refunding bonds," or to pay the principal of  
2 or interest on "the obligations." The revised law  
3 omits the reference to "refunding bonds" because  
4 refunding bonds are included in the meaning of "any  
5 types of bonds." The revised law substitutes "the  
6 bond" for "the obligations" for consistency of  
7 terminology.

8 Revised Law

9 Sec. 8508.0007. LIBERAL CONSTRUCTION OF CHAPTER. This  
10 chapter shall be liberally construed to achieve its purposes.  
11 (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 5 (part).)

12 Source Law

13 Sec. 5. This Act shall be liberally construed to  
14 achieve its purposes, and . . . .

15 Revisor's Note

16 (1) Section 5, Chapter 3, Acts of the 69th  
17 Legislature, 1st Called Session, 1985, provides that  
18 any grant of power included in that chapter shall be  
19 held to specify but not to limit general powers. The  
20 revised law omits the provision because it is an  
21 accepted general principle of statutory construction  
22 that a grant of a power does not act as a limitation.  
23 The omitted law reads:

24 Sec. 5. . . . any particular grant  
25 of power included in this Act shall be held  
26 to specify but not to limit general  
27 powers. . . .

28 (2) Section 5, Chapter 3, Acts of the 69th  
29 Legislature, 1st Called Session, 1985, provides in  
30 part that the act is sufficient authority for the  
31 performance of all acts and procedures authorized by  
32 the act, without reference to any other law or any  
33 restrictions or limitations included in any other law.

34 The revised law omits the statement that the act  
35 is sufficient authority for the performance of all  
36 acts and procedures authorized by the act because it is

1 unnecessary. The operative provisions of the act are  
2 fully effective on their own terms.

3 The revised law omits the statement that other  
4 laws or restrictions or limitations included in those  
5 laws do not apply because it is both unnecessary and  
6 potentially misleading. An accepted general principle  
7 of statutory construction requires a statute to be  
8 given cumulative effect with other statutes unless it  
9 provides otherwise or unless the statutes are in  
10 conflict. To the extent the statement means the act  
11 prevails over other law in existence at the time the  
12 act became effective and with which the act conflicts,  
13 the statement merely restates general rules of  
14 statutory construction. To the extent the statement  
15 means the act prevails over future enactments of the  
16 legislature that may conflict with it, it is  
17 misleading. It is a fundamental principle of  
18 statutory construction that one session of the  
19 legislature may not bind a future session of the  
20 legislature. In addition, Section 311.026, Government  
21 Code (Code Construction Act), governs the  
22 interpretation of the revised law in instances of  
23 apparent conflict with other laws.

24 Finally, codification of the statement is  
25 potentially misleading because the revised law not  
26 only omits provisions of the act that are impliedly  
27 repealed by other law, it also omits provisions that  
28 are duplicative of other law. Codification of the  
29 statement might create an impression that the  
30 provisions of other law that duplicate the omitted  
31 provisions do not apply. The omitted law reads:

32 Sec. 5. . . . This Act is sufficient  
33 authority for the performance of all acts  
34 and procedures authorized by this Act,  
35 without reference to any other law or any  
36 restrictions or limitations included in any

1 other law.

2 SUBCHAPTER B. BOARD OF DIRECTORS; ADMINISTRATIVE PROVISIONS

3 Revised Law

4 Sec. 8508.0051. MEMBERSHIP OF BOARD. (a) The board  
5 consists of seven directors appointed by the governor with the  
6 advice and consent of the senate.

7 (b) The governor shall appoint one director to represent the  
8 authority at large.

9 (c) The governor shall appoint two directors from each of  
10 the following regions:

11 (1) Region 1: Bowie and Red River Counties;

12 (2) Region 2: Cass, Franklin, Hunt, Morris, and Titus  
13 Counties; and

14 (3) Region 3: Delta, Hopkins, and Lamar Counties.

15 (d) Each director must be a qualified voter.

16 (e) A director appointed under Subsection (c) must be a  
17 resident of a county in the region for which the director is  
18 appointed. (Acts 69th Leg., 1st C.S., Ch. 3, Secs. 6(a) (part),  
19 (b).)

20 Source Law

21 Sec. 6. (a) [The authority shall be governed  
22 by a] board of directors composed of seven members. The  
23 members of the board shall be appointed by the governor  
24 with the advice and consent of the senate. One member  
25 of the board shall be appointed to represent the  
26 authority at large. Two members of the board shall be  
27 appointed from each of the following regions:

28 (1) Region 1: Bowie and Red River  
29 counties;

30 (2) Region 2: Cass, Franklin, Hunt,  
31 Morris, and Titus counties; and

32 (3) Region 3: Delta, Hopkins, and Lamar  
33 counties.

34 (b) Each member of the board must be a qualified  
35 elector. A member of the board appointed to represent a  
36 region under Subsection (a) must be a resident of a  
37 county in the region for which the member is appointed.

38 Revisor's Note

39 Section 6(b), Chapter 3, Acts of the 69th  
40 Legislature, 1st Called Session, 1985, refers to an  
41 "elector" of a county in the region for which a  
42 director is appointed. The revised law substitutes

1 "voter" for "elector" because the terms are synonymous  
2 and "voter" is the term used in the Election Code.

3 Revised Law

4 Sec. 8508.0052. TERMS. Directors serve for staggered terms  
5 of six years with two or three directors' terms expiring on February  
6 1 of each odd-numbered year. (Acts 69th Leg., 1st C.S., Ch. 3, Sec.  
7 6(c); Acts 85th Leg., R.S., Ch. 276, Sec. 15(c).)

8 Source Law

9 [Acts 69th Leg., 1st C.S., Ch. 3]

10 (c) Each member of the board shall serve for a  
11 term of six years and until the member's successor has  
12 qualified.

13 [Acts 85th Leg., R.S., Ch. 276]

14 (c) Notwithstanding Section 6(c), Chapter 3,  
15 Acts of the 69th Legislature, 1st Called Session,  
16 1985, as amended by this Act, of the seven initial  
17 members appointed by the governor under that section,  
18 the governor shall designate two members to serve for  
19 terms that expire on February 1, 2019, two members to  
20 serve for terms that expire on February 1, 2021, and  
21 three members to serve for terms that expire on  
22 February 1, 2023.

23 Revisor's Note

24 (1) Section 6(c), Chapter 3, Acts of the 69th  
25 Legislature, 1st Called Session, 1985, provides that  
26 each director shall serve "until the member's  
27 successor has qualified." The revised law omits the  
28 quoted language because it duplicates in substance  
29 Section 17, Article XVI, Texas Constitution, which  
30 requires an officer to continue to perform the  
31 officer's duties until a successor has qualified.

32 (2) Sections 15(a), (b), and (d), Chapter 276,  
33 Acts of the 85th Legislature, Regular Session, 2017,  
34 contain transition provisions regarding the terms of  
35 directors in office on the effective date of the act  
36 (September 1, 2017) and the appointment of successor  
37 directors. The revised law omits the provisions as  
38 executed because the terms of office of the directors  
39 serving on the effective date of the act have expired  
40 and successor directors have been appointed. The

omitted law reads:

Sec. 15. (a) The terms of the members of the board of directors of the Sulphur River Basin Authority serving on the effective date of this Act expire on September 1, 2017.

(b) Not later than September 2, 2017, the governor shall make the appointments required by Section 6, Chapter 3, Acts of the 69th Legislature, 1st Called Session, 1985, as amended by this Act.

(d) The governor may appoint to the board of directors under Subsection (b) of this section a member whose term expires under Subsection (a) of this section.

(3) Section 15(c), Chapter 276, Acts of the 85th Legislature, Regular Session, 2017, prescribes the procedure for staggering the terms of the directors first appointed under that act. The revised law revises the provision specifying that directors serve staggered terms with two or three director's terms expiring on February 1 of each odd-numbered year but omits as executed the provision relating to the year the initial terms expire.

#### Revised Law

Sec. 8508.0053. REMOVAL. (a) The governor may remove a director from office for:

(1) inefficiency;  
(2) neglect of duty;  
(3) misconduct in office; or  
(4) absence from three consecutive regular board meetings.

(b) Before a director is removed from office, the board shall call and hold a hearing on the charges against the director, and the director is entitled to appear at the hearing and present evidence to show why the director should not be removed from office.

(c) Not later than the 30th day before the date of the hearing, the board shall give the accused director notice of:

(1) the charges against the director; and  
(2) the time and place for the hearing.

1 (d) An affirmative vote of not fewer than four of the  
2 directors is required to approve a recommendation for removal.

3 (e) A recommendation for removal shall be forwarded to the  
4 governor for the governor's consideration and action as provided by  
5 this section. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 6(f).)

6 Source Law

7 (f) The governor may remove a director from  
8 office for inefficiency, neglect of duty, misconduct  
9 in office, or absence from three consecutive regular  
10 meetings of the board. Before a director is removed  
11 from office, the board shall call and hold a hearing on  
12 the charges against him, and the director who is the  
13 subject of the proposed removal is entitled to appear  
14 at the hearing and present evidence to show why he  
15 should not be removed from office. Not later than the  
16 30th day before the date of the hearing, the board  
17 shall give the accused director notice of the charges  
18 against him and the time and place for the hearing. An  
19 affirmative vote of not less than four of the directors  
20 is required to approve a recommendation for removal. A  
21 recommendation for removal shall be forwarded to the  
22 governor for his consideration and action as provided  
23 by this subsection.

24 Revised Law

25 Sec. 8508.0054. VACANCY. A vacancy on the board shall be  
26 filled in the manner provided by Section 8508.0051 for making the  
27 original appointment. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 6(e).)

28 Source Law

29 (e) All vacancies on the board shall be filled  
30 in the manner provided by this section for making the  
31 original appointment.

32 Revisor's Note

33 Section 6(e), Chapter 3, Acts of the 69th  
34 Legislature, 1st Called Session, 1985, provides that  
35 vacancies on the board shall be filled in the manner  
36 provided by "this section" for making the original  
37 appointment. The relevant provisions of Section 6,  
38 Chapter 3, Acts of the 69th Legislature, 1st Called  
39 Session, 1985, are revised as Section 8508.0051 of  
40 this chapter. For the reader's convenience, the  
41 revised law substitutes a reference to Section  
42 8508.0051 for the quoted language.



1                                    Revised Law

2            Sec. 8508.0055. BOND REQUIREMENT FOR DIRECTORS. As a  
3 qualification for office, a director must execute a bond in an  
4 amount determined by the board conditioned on the faithful  
5 performance of the director's duties. (Acts 69th Leg., 1st C.S.,  
6 Ch. 3, Sec. 6(d).)

7                                    Source Law

8            (d) Each member of the board shall qualify by  
9 taking the constitutional oath of office and by  
10 executing a bond in an amount determined by the board  
11 conditioned on the faithful performance of his duties.

12                                  Revisor's Note

13            Section 6(d), Chapter 3, Acts of the 69th  
14 Legislature, 1st Called Session, 1985, requires each  
15 director to take the constitutional oath of office.  
16 The revised law omits that provision because Section  
17 1, Article XVI, Texas Constitution, requires all  
18 officers to take the oath (or affirmation) before  
19 assuming office.

20                                  Revised Law

21            Sec. 8508.0056. COMPENSATION OF DIRECTORS. (a) A director  
22 is entitled to receive \$25 a day and reimbursement for actual and  
23 necessary expenses incurred:

24            (1) for each day the director spends attending  
25 meetings of the board; and

26            (2) for each day the director spends attending to the  
27 business of the authority that is authorized by the board.

28            (b) A director is not entitled to receive a per diem  
29 allowance for more than 50 days in a calendar year.

30            (c) In all areas of conflict with Subsection (a) or (b) of  
31 this section, Section 49.060, Water Code, takes precedence.

32            (d) A director's compensation may be increased as  
33 authorized by Section 49.060, Water Code, by resolution adopted by  
34 the board in accordance with Subsection (e) of that section on or  
35 after September 1, 1995. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 8;

1 New.)

2 Source Law

3 Sec. 8. (a) A director is entitled to receive  
4 \$25 a day and reimbursement for actual and necessary  
5 expenses incurred:

6 (1) for each day he spends attending  
7 meetings of the board; and

8 (2) for each day he spends attending to the  
9 business of the authority that is authorized by the  
10 board.

11 (b) A director is not entitled to receive a per  
12 diem allowance for more than 50 days in any single  
13 calendar year.

14 (c) A director's compensation may be increased  
15 as authorized by Section 49.060, Water Code, by  
16 resolution adopted by the board in accordance with  
17 Subsection (e) of that section on or after September 1,  
18 1995.

19 Revisor's Note

20 Sections 8(a), (b), and (c), Chapter 3, Acts of  
21 the 69th Legislature, 1st Called Session, 1985, relate  
22 to the compensation of directors. Section 8(a)  
23 provides that a director is entitled to receive a per  
24 diem of \$25 for each day the director spends attending  
25 to district business. Section 8(b) limits the number  
26 of days a director may receive a per diem in a calendar  
27 year to 50 days. Section 8(c), added in 2017 by  
28 Chapter 276, Acts of the 85th Legislature, Regular  
29 Session, provides that a director's compensation may  
30 be increased in the manner prescribed by Section  
31 49.060, Water Code. Section 49.060, Water Code, which  
32 was enacted in 1995 and applies to the district on its  
33 own terms, also provides for a director's fees of  
34 office, computed on a rate per day of a certain service  
35 and, under Subsection (a-1) of that section, requires  
36 the board to adopt a resolution limiting a director's  
37 total annual fees of office. Section 49.060(e)  
38 provides that, in all areas of conflict, Section  
39 49.060 takes precedence over all prior statutory  
40 enactments and that, if the enactment of that section  
41 would result in a fee increase, the increase does not

1       apply to a district unless the board by resolution  
2       authorizes payment of the higher fees. Because it is  
3       unclear whether the district has taken action relating  
4       to fees paid to directors and whether, after their  
5       revision as provisions of this chapter, Sections 8(a),  
6       (b), and (c) of Chapter 3 conflict with Section 49.060  
7       and would continue to be considered "prior statutory  
8       enactments" for purposes of Section 49.060(e), the  
9       revised law includes the substance of Sections 8(a),  
10      (b), and (c) and adds a provision to preserve the  
11      effect of Section 49.060 to the extent of a conflict  
12      with that language.

13                                   Revised Law

14      Sec. 8508.0057. OFFICERS.       (a)       The governor shall  
15      designate a director as the presiding officer of the board to serve  
16      in that capacity at the pleasure of the governor.

17      (b)   The board shall elect one or more vice presidents, a  
18      secretary, a treasurer, and other officers as the directors  
19      consider necessary.

20      (c)   The presiding officer and each vice president must be a  
21      director, but other officers are not required to be directors.

22      (d)   The offices of the secretary and treasurer may be  
23      combined, and the offices of assistant secretary and assistant  
24      treasurer may be combined. (Acts 69th Leg., 1st C.S., Ch. 3, Secs.  
25      6(i), (j).)

26                                   Source Law

27              (i)   The governor shall designate a member of the  
28      board as the presiding officer of the board to serve in  
29      that capacity at the pleasure of the governor.

30              (j)   The board shall elect one or more  
31      vice-presidents, a secretary, a treasurer, and other  
32      officers as the members of the board consider  
33      necessary. The presiding officer and vice-president  
34      must be members of the board, but other officers are  
35      not required to be members of the board. The offices of  
36      the secretary and treasurer may be combined, and the  
37      offices of assistant secretary and assistant treasurer  
38      may be combined.

Revised Law

Sec. 8508.0058. DIRECTOR TRAINING PROGRAM. (a) A person who is appointed to and qualifies for office as a director may not vote, deliberate, or be counted as a director in attendance at a board meeting until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) the law governing the authority's operations;
- (2) the authority's programs, functions, rules, and budget;
- (3) the scope of and limitations on the authority's rulemaking authority;
- (4) the results of the authority's most recent formal audit;
- (5) the requirements of:
  - (A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and
  - (B) other laws applicable to members of the governing body of a river authority in performing their duties; and
- (6) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) The board shall create a training manual that includes the information required by Subsection (b). The board shall distribute a copy of the training manual annually to each director. On receipt of the training manual, each director shall sign a statement acknowledging receipt of the training manual. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 6A.)

## Source Law

Sec. 6A. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the law governing authority operations;

(2) the programs, functions, rules, and budget of the authority;

(3) the scope of and limitations on the rulemaking authority of the authority;

(4) the results of the most recent formal audit of the authority;

(5) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and

(B) other laws applicable to members of the governing body of a river authority in performing their duties; and

(6) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) The board shall create a training manual that includes the information required by Subsection (b). The board shall distribute a copy of the training manual annually to each member of the board. On receipt of the training manual, each member of the board shall sign a statement acknowledging receipt of the training manual.

## Revised Law

Sec. 8508.0059. INTEREST IN CONTRACT. (a) A director who has a financial interest in an authority contract for the purchase, sale, lease, rental, or supply of property, including supplies, materials, and equipment, or for the construction of facilities, shall disclose that fact to the other directors and may not vote on or participate in discussions during board meetings on the acceptance of the contract.

(b) A director's financial interest does not affect the validity of a contract if disclosure is made and the director with the financial interest does not vote on the question of entering into the contract. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 7.)

## Source Law

Sec. 7. A director who has a financial interest

1 in a contract of the authority for the purchase, sale,  
2 lease, rental, or supply of property, including  
3 supplies, materials, and equipment, or the  
4 construction of facilities shall disclose that fact to  
5 the other members of the board and may not vote on or  
6 participate in discussions during board meetings on  
7 the acceptance of the contract. A financial interest  
8 of a director does not affect the validity of a  
9 contract if disclosure is made and the director with  
10 the financial interest does not vote on the question of  
11 entering into the contract.

12 Revised Law

13 Sec. 8508.0060. COMMITTEES. (a) The board may appoint or  
14 establish committees from the board's directors as necessary or  
15 desirable to assist in conducting the authority's business.

16 (b) Subject to the applicable rules of law on delegation of  
17 powers, the board may assign or delegate or provide for the  
18 assignment or delegation of any powers, duties, and functions to  
19 its committees as the board may provide by rule or resolution.  
20 (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 9.)

21 Source Law

22 Sec. 9. The board may appoint or establish  
23 committees from the membership of the board as  
24 necessary or desirable to assist in conducting the  
25 business of the authority. Subject to the applicable  
26 rules of law on delegation of powers, the board may  
27 assign or delegate or provide for the assignment or  
28 delegation of any powers, duties, and functions to its  
29 committees as the board may provide by rule or  
30 resolution.

31 Revised Law

32 Sec. 8508.0061. EXECUTIVE DIRECTOR. (a) The board may  
33 employ an executive director and set the executive director's  
34 salary and other compensation by majority vote of the qualified  
35 directors.

36 (b) The executive director is the chief executive officer of  
37 the authority.

38 (c) Under policies established by the board, the executive  
39 director is responsible to the board for:

- 40 (1) administering the board's directives;  
41 (2) keeping the authority's records, including minutes  
42 of the meetings of the board and the executive committee;  
43 (3) coordinating with state, federal, and local

1 agencies;

2 (4) developing plans and programs for the approval of  
3 the board or the executive committee;

4 (5) hiring, supervising, training, and discharging  
5 the authority's employees, as authorized by the board or the  
6 executive committee;

7 (6) contracting for or retaining technical,  
8 scientific, legal, fiscal, and other professional services, as  
9 authorized by the board; and

10 (7) performing any other duties assigned by the board.

11 (d) The board may discharge the executive director on a  
12 majority vote of the qualified directors. (Acts 69th Leg., 1st  
13 C.S., Ch. 3, Sec. 10.)

14 Source Law

15 Sec. 10. (a) The board may employ an executive  
16 director and set his salary and other compensation by  
17 majority vote of the qualified directors.

18 (b) The executive director is the chief  
19 executive officer of the authority.

20 (c) Under policies established by the board, the  
21 executive director is responsible to the board for:

22 (1) administering the directives of the  
23 board;

24 (2) keeping the authority's records,  
25 including minutes of the meetings of the board and the  
26 executive committee;

27 (3) coordinating with state, federal, and  
28 local agencies;

29 (4) developing plans and programs for the  
30 approval of the board or the executive committee;

31 (5) hiring, supervising, training, and  
32 discharging the authority's employees, as authorized  
33 by the board or the executive committee;

34 (6) contracting for or retaining  
35 technical, scientific, legal, fiscal, and other  
36 professional services, as authorized by the board; and

37 (7) performing any other duties assigned  
38 by the board.

39 (d) The board may discharge the executive  
40 director on a majority vote of the qualified  
41 directors.

42 Revised Law

43 Sec. 8508.0062. SEPARATION OF POLICYMAKING AND MANAGEMENT  
44 FUNCTIONS. The board shall develop and implement policies that  
45 clearly separate the policymaking responsibilities of the board and  
46 the management responsibilities of the executive director and staff  
47 of the authority. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 10A.)

1                                    Source Law

2                    Sec. 10A. The board shall develop and implement  
3 policies that clearly separate the policymaking  
4 responsibilities of the board and the management  
5 responsibilities of the executive director and staff  
6 of the authority.

7                                    Revised Law

8                    Sec. 8508.0063. DIRECTORS' AND EMPLOYEES' FIDELITY BONDS.

9                    (a) The executive director, the treasurer, and any other officer,  
10 agent, or employee of the authority who has responsibilities that  
11 involve the collection, custody, or payment of authority money  
12 shall execute a fidelity bond.

13                    (b) The board must approve the form, amount, and surety of  
14 the bond.

15                    (c) The authority shall pay the premiums on the bonds  
16 required under this chapter. (Acts 69th Leg., 1st C.S., Ch. 3, Sec.  
17 11.)

18                                    Source Law

19                    Sec. 11. (a) The executive director, the  
20 treasurer, and other officers, agents, and employees  
21 of the authority who have responsibilities that  
22 involve the collection, custody, or payment of any  
23 money of the authority shall execute a fidelity bond.  
24 The board shall approve the form, amount, and surety of  
25 the bond.

26                    (b) The authority shall pay the premiums on the  
27 bonds required under this Act.

28                                    Revised Law

29                    Sec. 8508.0064. AUTHORITY'S OFFICE. The authority shall  
30 maintain its principal office inside its boundaries. (Acts 69th  
31 Leg., 1st C.S., Ch. 3, Sec. 12.)

32                                    Source Law

33                    Sec. 12. The authority shall maintain its  
34 principal office inside its boundaries.

35                                    Revised Law

36                    Sec. 8508.0065. NEGOTIATED RULEMAKING AND ALTERNATIVE  
37 DISPUTE RESOLUTION. (a) The board shall develop a policy to  
38 encourage the use of:

39                    (1) negotiated rulemaking procedures under Chapter  
40 2008, Government Code, for the adoption of authority rules; and



(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the authority's jurisdiction.

(b) The authority's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The authority shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 6B.)

## Source Law

Sec. 6B. (a) The board shall develop a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of authority rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the authority's jurisdiction.

(b) The authority's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.

(c) The authority shall:

(1) coordinate the implementation of the policy adopted under Subsection (a);

(2) provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and

(3) collect data concerning the effectiveness of those procedures.

## Revised Law

Sec. 8508.0066. COMPLAINTS. (a) The authority shall maintain a system to promptly and efficiently act on complaints filed with the authority. The authority shall maintain information

1 about parties to the complaint, the subject matter of the  
2 complaint, a summary of the results of the review or investigation  
3 of the complaint, and its disposition.

4 (b) The authority shall make information available  
5 describing its procedures for complaint investigation and  
6 resolution.

7 (c) The authority shall periodically notify the parties to  
8 the complaint of the status of the complaint until final  
9 disposition. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 13A.)

10 Source Law

11 Sec. 13A. (a) The authority shall maintain a  
12 system to promptly and efficiently act on complaints  
13 filed with the authority. The authority shall  
14 maintain information about parties to the complaint,  
15 the subject matter of the complaint, a summary of the  
16 results of the review or investigation of the  
17 complaint, and its disposition.

18 (b) The authority shall make information  
19 available describing its procedures for complaint  
20 investigation and resolution.

21 (c) The authority shall periodically notify the  
22 complaint parties of the status of the complaint until  
23 final disposition.

24 Revisor's Note  
25 (End of Subchapter)

26 (1) Section 6(a), Chapter 3, Acts of the 69th  
27 Legislature, 1st Called Session, 1985, provides that  
28 the authority is governed by a board of directors. The  
29 revised law omits that provision because it  
30 duplicates, in substance, parts of Sections 49.051 and  
31 49.057, Water Code. Throughout this chapter, the  
32 revised law omits law that is superseded by Chapter 49,  
33 Water Code, or that duplicates law contained in that  
34 chapter. Except as otherwise provided by that  
35 chapter, Chapter 49, Water Code, applies to the  
36 authority under Sections 49.001 and 49.002, Water  
37 Code. The omitted law reads:

38 Sec. 6. (a) The authority shall be  
39 governed by a [board of directors] . . . .

40 (2) Section 6(g), Chapter 3, Acts of the 69th  
41 Legislature, 1st Called Session, 1985, provides that a

majority of the members of the board constitutes a quorum for the transaction of business. The revised law omits that provision because it duplicates Section 311.013, Government Code (Code Construction Act), which provides that a quorum of a public body is a majority of the number of members fixed by statute. The revised law also omits "for the transaction of business" because "quorum" means the number of persons or votes necessary for a body to act. The omitted law reads:

(g) A majority of the members of the board constitutes a quorum for the transaction of business.

(3) Section 13(b), Chapter 3, Acts of the 69th Legislature, 1st Called Session, 1985, requires the board to keep complete and accurate minutes of its meetings. The revised law omits that provision because it duplicates, in substance, part of Section 49.065, Water Code. The omitted law reads:

(b) The authority shall keep complete and accurate minutes of its meetings.

#### SUBCHAPTER C. POWERS AND DUTIES

##### Revised Law

Sec. 8508.0101. GENERAL POWERS AND DUTIES. (a) The authority shall:

(1) administer this chapter; and

(2) use its facilities and powers to accomplish the purposes of this chapter.

(b) The authority may:

(1) exercise the powers, rights, and privileges necessary or convenient for accomplishing the purposes of this chapter; and

(2) perform any act necessary or convenient to the exercise of the powers, rights, privileges, or functions conferred by this chapter or other laws.

1 (c) The board may provide for any expenditures it considers  
2 essential or useful in the maintenance, operation, and  
3 administration of the authority. (Acts 69th Leg., 1st C.S., Ch. 3,  
4 Secs. 16(a), (b), 38.)

5 Source Law

6 Sec. 16. (a) The authority shall administer  
7 this Act and shall use its facilities and powers to  
8 accomplish the purposes of this Act.

9 (b) The authority may exercise the powers,  
10 rights, and privileges necessary or convenient for  
11 accomplishing the purposes of this Act.

12 Sec. 38. (a) The board may provide for any  
13 expenditures it considers essential or useful in the  
14 maintenance, operation, and administration of the  
15 authority.

16 (b) The authority may perform any other acts or  
17 things necessary or convenient to the exercise of the  
18 powers, rights, privileges, or functions conferred by  
19 this Act or other laws.

20 Revised Law

21 Sec. 8508.0102. EFFECT OF POWERS OF AUTHORITY ON POWERS OF  
22 OTHER DISTRICTS; COORDINATION AND JOINT UNDERTAKINGS AMONG  
23 DISTRICTS. (a) The powers granted to the authority by this chapter  
24 are not intended to restrict the powers of any conservation and  
25 reclamation district created under Section 59, Article XVI, Texas  
26 Constitution, inside the basin or area of the authority. It is the  
27 legislature's intent that the authority and those districts  
28 exercise their respective powers in a cooperative manner.

29 (b) A district created under Section 59, Article XVI, or  
30 Sections 52(b)(1) and (2), Article III, Texas Constitution, on or  
31 before August 29, 1985, may:

32 (1) coordinate its plans with the authority; and

33 (2) enter into joint undertakings with the authority  
34 for the purposes for which the entities are created.

35 (c) The acts taken under Subsection (b) must be approved by  
36 a majority of the boards of directors of the district and authority.  
37 (Acts 69th Leg., 1st C.S., Ch. 3, Secs. 16(c) (part), (d).)

38 Source Law

39 (c) . . . However, the powers granted to the  
40 authority by this Act are not intended to restrict the  
41 powers of any conservation and reclamation district

1 previously created within the basin or area of the  
2 authority under Article XVI, Section 59, of the Texas  
3 Constitution. It is the legislature's intent that the  
4 authority and those districts exercise their  
5 respective powers in a cooperative manner.

6 (d) A district previously created under Article  
7 XVI, Section 59, or Article III, Sections 52(b)(1) and  
8 (2), of the Texas Constitution may coordinate its  
9 plans with the authority and may enter into joint  
10 undertakings for the purposes for which the districts  
11 are created. However, those acts must be approved by a  
12 majority of the board of directors of the district and  
13 authority.

14 Revisor's Note

15 (1) Section 16(c), Chapter 3, Acts of the 69th  
16 Legislature, 1st Called Session, 1985, provides that  
17 the powers granted to the authority by that chapter are  
18 cumulative of powers granted by other law. The revised  
19 law omits the provision because an accepted general  
20 principle of statutory construction requires that a  
21 statute be given cumulative effect with other statutes  
22 unless the other statute provides otherwise or unless  
23 the statute conflicts with another statute. The  
24 omitted law reads:

25 (c) The powers granted to the  
26 authority by this Act are cumulative of all  
27 powers granted by other laws that are  
28 applicable to the authority. . . .

29 (2) Section 16(d), Chapter 3, Acts of the 69th  
30 Legislature, 1st Called Session, 1985, refers to a  
31 district "previously" created under certain  
32 provisions of the Texas Constitution. The revised law  
33 substitutes the effective date of the legislation  
34 enacting Section 16(d) for the quoted term to clarify  
35 for the reader the period referred to in the section.

36 Revised Law

37 Sec. 8508.0103. GENERAL POWERS RELATING TO WORKS AND WATER.

38 (a) The authority may exercise all the rights and powers of an  
39 independent agency and a body politic and corporate to construct,  
40 maintain, and operate, inside this state and in the watershed of the  
41 Sulphur River and its tributaries inside or outside the boundaries  
42 of the authority, any work considered essential:

1           (1) to the authority's operation; and

2           (2) for its administration in controlling, storing,  
3 preserving, and distributing the water, including storm water and  
4 floodwater, of the Sulphur River and its tributary streams.

5           (b) The authority may exercise the power of control and  
6 regulation over the water of the Sulphur River and its tributaries  
7 as this state may exercise, subject to the constitution and laws of  
8 this state. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 1(d).)

9                               Source Law

10           (d) The authority may exercise all the rights  
11 and powers of an independent agency, body politic and  
12 corporate, to construct, maintain, and operate inside  
13 the state and in the watershed of the Sulphur River and  
14 its tributaries inside or outside the boundaries of  
15 the authority any works considered essential to the  
16 operation of the authority and for its administration  
17 in controlling, storing, preserving, and distributing  
18 the water of the Sulphur River and its tributary  
19 streams, including the storm water and floodwater.  
20 The authority may exercise the power of control and  
21 regulation over the water of the Sulphur River and its  
22 tributaries as may be exercised by the state, subject  
23 to the constitution and the laws of this state.

24                               Revised Law

25           Sec. 8508.0104. CONTROL AND USE OF WATERS. (a) The  
26 authority may exercise power over the storm water and floodwater of  
27 the basin.

28           (b) The authority may exercise the powers of control and use  
29 of the state's water in the following manner and for the following  
30 purposes:

31           (1) to provide for the control and coordination of  
32 water use in the basin as a unit;

33           (2) to provide by adequate organization and  
34 administration for the preservation of the rights of the people of  
35 the different sections of the basin in the beneficial use of water;

36           (3) to provide for conserving storm water, floodwater,  
37 and the unappropriated flow of the basin, including the storage,  
38 control, transportation, treatment, and distribution of that  
39 water, and the prevention of the escape of water without the maximum  
40 of public service;

1           (4) to provide for the prevention of the devastation  
2 of land from recurrent overflows;

3           (5) to provide for the protection of life and property  
4 in the basin from uncontrolled floodwater;

5           (6) to provide for the conservation of water essential  
6 for domestic and other water uses of the people of the basin,  
7 including necessary water supplies for municipalities and  
8 industrial districts;

9           (7) to provide for the irrigation of land in the basin  
10 where irrigation is required for agricultural purposes or is  
11 considered helpful to more profitable agricultural production;

12           (8) to provide for the equitable distribution of storm  
13 water, floodwater, and unappropriated flow water to meet the  
14 regional potential requirements for all uses;

15           (9) to provide for the encouragement and development  
16 of drainage systems and provisions for the drainage of land in the  
17 valleys of the basin needing drainage for profitable agricultural  
18 and livestock production and industrial activities, and other  
19 drainage of land for the most advantageous use;

20           (10) to provide for the conservation of soil against  
21 destructive erosion to prevent the increased flood menace incident  
22 to erosion;

23           (11) to control and make available for use storm  
24 water, floodwater, and unappropriated flow water as authorized by  
25 the commission in the development of commercial and industrial  
26 enterprises in all sections of the watershed area of the authority;

27           (12) to provide for each purpose and use for which  
28 storm water, floodwater, and unappropriated flow water when  
29 controlled and conserved may be used in the performance of a useful  
30 service as contemplated and authorized by the provisions of the  
31 constitution and laws of this state;

32           (13) to control, store, and preserve the water of the  
33 basin inside the authority for any useful purpose;

34           (14) to use, distribute, and sell water for any

1 beneficial purpose inside and outside the authority; and

2 (15) to acquire water and water rights inside and  
3 outside the authority.

4 (c) The plans and works provided by the authority or under  
5 the power of the authority should give primary consideration to the  
6 necessary and potential needs for water by or in the various areas  
7 in the watershed of the basin. (Acts 69th Leg., 1st C.S., Ch. 3,  
8 Secs. 17(a), (b), (c).)

9 Source Law

10 Sec. 17. (a) Subject to the constitution and  
11 other laws of this state and the continuing right of  
12 supervision of the state through the commission, the  
13 authority may exercise authority over the storm water  
14 and floodwater of the basin, subject to applicable  
15 provisions of the Water Code.

16 (b) The authority may exercise the powers of  
17 control and use of the state's water in the manner and  
18 for the following purposes:

19 (1) to provide for the control and  
20 coordination of water use in the basin as a unit;

21 (2) to provide by adequate organization  
22 and administration for the preservation of the rights  
23 of the people of the different sections of the basin in  
24 the beneficial use of water;

25 (3) to provide for conserving storm water,  
26 floodwater, and unappropriated flow of the basin,  
27 including the storage, control, transportation,  
28 treatment, and distribution of that water, and the  
29 prevention of the escape of water without the maximum  
30 of public service and for the prevention of  
31 devastation of land from recurrent overflows, and the  
32 protection of life and property in the river basin from  
33 uncontrolled floodwater;

34 (4) to provide for the conservation of  
35 water essential for domestic and other water uses of  
36 the people of the basin, including necessary water  
37 supplies for cities, towns, and industrial districts;

38 (5) to provide for the irrigation of land  
39 in the basin where irrigation is required for  
40 agricultural purposes or is considered helpful to more  
41 profitable agricultural production and for the  
42 equitable distribution of storm water, floodwater, and  
43 unappropriated flow water to the regional potential  
44 requirements for all uses;

45 (6) to provide for the encouragement and  
46 development of drainage systems and provisions for  
47 drainage of land in the valleys of the basin needing  
48 drainage for profitable agricultural and livestock  
49 production and industrial activities, and other  
50 drainage of land for the most advantageous use;

51 (7) to provide for the conservation of  
52 soil against destructive erosion, thereby preventing  
53 the increased flood menace incident to erosion;

54 (8) to control and make available for use  
55 storm water, floodwater, and unappropriated flow water  
56 as authorized by the commission, in the development of  
57 commercial and industrial enterprises in all sections  
58 of the watershed area of the authority;



1           (9) to provide for each purpose and use for  
2 which storm water, floodwater, and unappropriated flow  
3 water when controlled and conserved may be used in the  
4 performance of a useful service as contemplated and  
5 authorized by the provisions of the constitution and  
6 laws of this state;

7           (10) to control, store, and preserve the  
8 water of the basin inside the boundaries of the  
9 authority for any useful purpose;

10          (11) to use, distribute, and sell water  
11 for any beneficial purpose inside and outside the  
12 authority; and

13          (12) to acquire water and water rights  
14 inside and outside the authority.

15          (c) Plans and works provided by the authority or  
16 under authorization of the authority should give  
17 primary consideration to the necessary and potential  
18 needs for water by or within the various areas within  
19 the watershed of the basin.

20                           Revisor's Note

21           (1) Section 17(a), Chapter 3, Acts of the 69th  
22 Legislature, 1st Called Session, 1985, provides that,  
23 "[s]ubject to the constitution and other laws of this  
24 state and the continuing right of supervision of the  
25 state through the commission," the authority has  
26 certain powers, "subject to applicable provisions of  
27 the Water Code." The revised law omits the reference  
28 to the constitution and other laws of this state and  
29 the applicable provisions of the Water Code because  
30 the applicable provisions of those laws apply by their  
31 own terms. The revised law omits the reference to the  
32 continuing right of supervision of the state through  
33 the Texas Water Commission because the Texas  
34 Commission on Environmental Quality is the successor  
35 to the Texas Water Commission, and therefore the  
36 provision duplicates in substance part of Section  
37 12.081, Water Code, which subjects certain special  
38 districts and authorities, including the authority, to  
39 supervision by the Texas Commission on Environmental  
40 Quality.

41           (2) Section 17(b)(4), Chapter 3, Acts of the  
42 69th Legislature, 1st Called Session, 1985, refers to  
43 "cities" and "towns." The revised law substitutes

1 "municipalities" for "cities" and "towns" because the  
2 meaning of "municipalities" includes both cities and  
3 towns, and "municipalities" is the term used in the  
4 Local Government Code.

5 Revised Law

6 Sec. 8508.0105. USE OF BEDS AND BANKS OF SULPHUR RIVER AND  
7 ITS TRIBUTARIES. Subject to the approval of the commission, the  
8 authority may use the beds and banks of the Sulphur River and its  
9 tributary streams for any purpose necessary to accomplish the  
10 authority's plans for storing, controlling, conserving,  
11 transporting, and distributing storm water, floodwater, and  
12 appropriated flow waters for useful purposes. (Acts 69th Leg., 1st  
13 C.S., Ch. 3, Sec. 36.)

14 Source Law

15 Sec. 36. Subject to the approval of the  
16 commission, the authority may use the beds and banks of  
17 the Sulphur River and its tributary streams for any  
18 purposes necessary to accomplish the plans of the  
19 authority for storing, controlling, conserving,  
20 transporting, and distributing storm water,  
21 floodwater, and appropriated flow waters for useful  
22 purposes.

23 Revised Law

24 Sec. 8508.0106. WATER CONSERVATION PROGRAM. (a) In this  
25 section, "program of water conservation" means the use of  
26 practices, techniques, and technologies that will reduce water  
27 consumption, reduce water loss or waste, improve efficiency in  
28 water use, or increase water recycling and reuse so that a water  
29 supply is available for future uses.

30 (b) The authority shall adopt and implement a program of  
31 water conservation consistent with rules and criteria adopted and  
32 enforceable by the commission and development board for similarly  
33 situated authorities. (Acts 69th Leg., 1st C.S., Ch. 3, Sec.  
34 17(d).)

35 Source Law

36 (d) The authority shall adopt and implement a  
37 program of water conservation consistent with rules  
38 and criteria duly adopted and enforceable by the  
39 commission and development board for similarly

1       situated authorities. A program of water conservation  
2       means the use of practices, techniques, and  
3       technologies that will reduce the consumption of  
4       water, reduce the loss or waste of water, improve  
5       efficiency in the use of water, or increase the  
6       recycling and reuse of water so that a water supply is  
7       made available for future uses.

8                               Revisor's Note

9               Section 17(d), Chapter 3, Acts of the 69th  
10       Legislature, 1st Called Session, 1985, refers to  
11       "duly" adopted rules and criteria. The revised law  
12       omits "duly" as unnecessary in this context because  
13       the word does not add to the clear meaning of the law. A  
14       rule or criterion must be "duly" adopted in order for  
15       the rule or criterion to be enforceable.

16                              Revised Law

17       Sec. 8508.0107. GROUNDWATER.       (a)       The authority may  
18       conduct surveys and studies of the groundwater supplies in the  
19       authority to:

20               (1)   determine the location and quantity of available  
21       groundwater; and

22               (2)   develop and ascertain other information that in  
23       the judgment of the board may be necessary to fully develop water  
24       uses from the groundwater in the authority.

25               (b)   With the approval and under the supervision of the  
26       commission, the authority may appropriate storm water and  
27       floodwater to recharge underground freshwater-bearing sand and  
28       aquifers in the basin. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 19.)

29                              Source Law

30       Sec. 19. (a) The authority may conduct surveys  
31       and studies of the groundwater supplies in the  
32       authority for the purpose of determining the location  
33       and quantity of groundwater available, and to develop  
34       and ascertain other data and information that in the  
35       judgment of the board may be necessary to fully develop  
36       water uses from the groundwater in the authority.

37       (b) Subject to the requirements of applicable  
38       laws and with the approval and under the supervision of  
39       the commission, the authority may appropriate storm  
40       water and floodwater to recharge underground  
41       freshwater-bearing sand and aquifers in the basin.

42                              Revisor's Note

43       (1) Section 19(a), Chapter 3, Acts of the 69th

1 Legislature, 1st Called Session, 1985, refers to "data  
2 and information." The revised law omits the term  
3 "data" because, in this context, the meaning of  
4 "information" includes "data."

5 (2) Section 19(b), Chapter 3, Acts of the 69th  
6 Legislature, 1st Called Session, 1985, provides that,  
7 "[s]ubject to the requirements of applicable laws,"  
8 the authority may appropriate storm water and  
9 floodwater for certain purposes. The revised law  
10 omits the quoted language for the reason stated in  
11 Revisor's Note (1) to Section 8508.0104.

12 Revised Law

13 Sec. 8508.0108. APPLICABILITY OF CERTAIN ENVIRONMENTAL  
14 LAWS. The authority is a river authority for the purposes and  
15 definitions of Chapter 30, Water Code, and Chapter 383, Health and  
16 Safety Code, as they apply to the authority. (Acts 69th Leg., 1st  
17 C.S., Ch. 3, Sec. 20 (part).)

18 Source Law

19 Sec. 20. The authority is a river authority for  
20 the purposes and definitions of Chapter 30, Water  
21 Code, and the Clean Air Financing Act (Article  
22 4477-5a, Vernon's Texas Civil Statutes) as they apply  
23 to the authority. . . .

24 Revisor's Note

25 (1) Section 20, Chapter 3, Acts of the 69th  
26 Legislature, 1st Called Session, 1985, refers to the  
27 "Clean Air Financing Act (Article 4477-5a, Vernon's  
28 Texas Civil Statutes)." Throughout this chapter, the  
29 revised law substitutes "Chapter 383, Health and  
30 Safety Code," for the quoted language because the  
31 Clean Air Financing Act was revised in 1989 as Chapter  
32 383, Health and Safety Code.

33 (2) Section 20, Chapter 3, Acts of the 69th  
34 Legislature, 1st Called Session, 1985, provides that  
35 in the event of a conflict between Chapter 3 and a  
36 provision of the Clean Air Financing Act, Chapter 3

1 prevails. The revised law omits the provision because  
2 it is both unnecessary and potentially misleading. To  
3 the extent it means Chapter 3 prevails over provisions  
4 of the Clean Air Financing Act in existence at the time  
5 Chapter 3 became effective and with which the chapter  
6 conflicts, the provision merely restates general rules  
7 of statutory construction. To the extent it means  
8 Chapter 3 prevails over any future amendments to the  
9 Clean Air Financing Act that may conflict with the  
10 chapter, it is misleading. It is a fundamental  
11 principle of statutory construction that one session  
12 of the legislature may not bind a future session of the  
13 legislature. In addition, Section 311.026, Government  
14 Code (Code Construction Act), governs the  
15 interpretation of the revised law in instances of  
16 apparent conflict with other laws. The omitted law  
17 reads:

18                   Sec. 20. . . . If a provision of the  
19                   Clean Air Financing Act conflicts with this  
20                   Act, this Act prevails.

21                                   Revised Law

22           Sec. 8508.0109. PERMITS AND LICENSES. (a) The authority  
23 must apply for any permit, license, or other grant of authority  
24 required from the commission.

25           (b) The authority may apply for any permit, license, or  
26 financial assistance it may need from any federal, state, or local  
27 governmental agency. (Acts 69th Leg., 1st C.S., Ch. 3, Secs. 23(a),  
28 (b).)

29                                   Source Law

30           Sec. 23. (a) The authority shall apply for any  
31 permits, licenses, and other grants of authority  
32 required from the commission.

33           (b) The authority may apply for any permits,  
34 licenses, and financial assistance it may need from  
35 any federal, state, or local governmental agency.

36                                   Revised Law

37           Sec. 8508.0110. CONSULTATION WITH COUNTY JUDGE FOR CERTAIN

1 PROPOSED PROJECTS. Before voting on a proposed project for which  
2 the board will seek a permit, the board shall obtain advice on the  
3 project from the county judge of each county in which the project is  
4 proposed to be located. (Acts 69th Leg., 1st C.S., Ch. 3, Sec.  
5 23(c).)

6 Source Law

7 (c) Before voting on a proposed project for  
8 which the board will seek a permit, the board shall  
9 obtain advice on the proposed project from the county  
10 judge of each county in which the proposed project is  
11 proposed to be located.

12 Revised Law

13 Sec. 8508.0111. SERVICE CONTRACTS AND CHARGES. (a) The  
14 authority may enter into service contracts and may adopt  
15 resolutions and orders establishing rates and providing for the  
16 collection of fees and charges for:

- 17 (1) the sale or use of water;  
18 (2) the services of water transmission, treatment, and  
19 storage facilities;  
20 (3) liquid waste collection, treatment, and disposal  
21 services and facilities;  
22 (4) the sale of power and electric energy; and  
23 (5) any other services or facilities sold, furnished,  
24 or supplied by the authority.

25 (b) The fees and charges must be sufficient to produce  
26 revenues adequate to:

- 27 (1) pay expenses necessary for the operation and  
28 maintenance of the authority's property and facilities;  
29 (2) pay the principal of and interest on any bonds or  
30 other obligations issued by the authority when due and payable;  
31 (3) fulfill any reserve or other fund obligations of  
32 the authority in connection with the bonds or other obligations;  
33 and

34 (4) pay any other expenses the board may consider  
35 necessary and proper for the authority's operations. (Acts 69th  
36 Leg., 1st C.S., Ch. 3, Sec. 24.)

## Source Law

Sec. 24. (a) The authority may enter into service contracts and may adopt resolutions and orders establishing rates and providing for the collection of fees and charges for the sale or use of water, the services of water transmission, treatment, and storage facilities, liquid waste collection, treatment and disposal facilities and services, the sale of power and electric energy, and any other services or facilities sold, furnished, or supplied by the authority.

(b) The fees and charges shall be sufficient to produce revenues adequate to:

(1) pay expenses necessary for the operation and maintenance of the property and facilities of the authority;

(2) pay the principal of and interest on any bonds or other obligations issued by the authority when due and payable and to fulfill any reserve or other fund obligations of the authority in connection with the bonds or other obligations; and

(3) pay any other expenses the board may consider necessary and proper for the operations of the authority.

## Revised Law

Sec. 8508.0112. ACQUISITION, MAINTENANCE, AND OPERATION OF PROPERTY. The authority may purchase, lease, acquire by gift, maintain, use, and operate property of any kind inside or outside the authority that is appropriate for the exercise of its powers or the accomplishment of its purposes. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 26(a).)

## Source Law

Sec. 26. (a) The authority may purchase, lease, acquire by gift, maintain, use, and operate property of any kind inside or outside the authority, appropriate for the exercise of its powers or accomplishment of its purposes.

## Revised Law

Sec. 8508.0113. ACQUISITION, CONSTRUCTION, MAINTENANCE, AND OPERATION OF FACILITIES. The authority may acquire, construct, extend, improve, maintain, reconstruct, use, and operate facilities inside or outside the authority that are necessary or convenient for the exercise of its powers, rights, duties, and functions or the accomplishment of its purposes. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 27.)

## Source Law

Sec. 27. The authority may acquire, construct,

1 extend, improve, maintain, reconstruct, use, and  
2 operate any facilities inside or outside the authority  
3 necessary or convenient to the exercise of its powers,  
4 rights, duties, and functions or accomplishments of  
5 its purposes.

6 Revised Law

7 Sec. 8508.0114. EMINENT DOMAIN. (a) The authority may  
8 exercise the power of eminent domain to acquire land inside or  
9 outside the authority to carry out a power, right, privilege, or  
10 function authorized by this chapter if the board, after notice and  
11 hearing, determines that the action is necessary.

12 (b) The authority must exercise the power of eminent domain  
13 in the manner provided by Chapter 21, Property Code, except that the  
14 authority is not required to:

15 (1) give bond for appeal or bond for costs in a  
16 condemnation suit or other suit to which it is a party; or

17 (2) deposit double the amount of any award in any suit.

18 (c) The authority's authority under this section to  
19 exercise the power of eminent domain expired on September 1, 2013,  
20 unless the authority submitted a letter to the comptroller in  
21 accordance with Section 2206.101(b), Government Code, not later  
22 than December 31, 2012. (Acts 69th Leg., 1st C.S., Ch. 3, Secs.  
23 25(a), (b); New.)

24 Source Law

25 Sec. 25. (a) The authority may acquire land  
26 inside and outside the authority to carry out the  
27 powers, rights, privileges, authority, and functions  
28 authorized by this Act by condemnation when the board  
29 determines, after notice and hearing, that it is  
30 necessary.

31 (b) The right of eminent domain shall be  
32 exercised by the authority in the manner provided by  
33 Chapter 21, Property Code, except that the authority  
34 is not required to give bond for appeal or bond for  
35 costs in a condemnation suit or other suit to which it  
36 is a party and is not required to deposit double the  
37 amount of any award in any suit.

38 Revisor's Note

39 (1) Section 25(a), Chapter 3, Acts of the 69th  
40 Legislature, 1st Called Session, 1985, refers to the  
41 authority's "powers" and "authority." The revised law  
42 omits the reference to "authority" because, in



1 context, it is included in the meaning of "powers."

2 (2) Section 25(a), Chapter 3, Acts of the 69th  
3 Legislature, 1st Called Session, 1985, provides that  
4 "[t]he authority may acquire [certain land for certain  
5 purposes] by condemnation." The revised law  
6 substitutes for the quoted language "[t]he authority  
7 may exercise the power of eminent domain to acquire  
8 [certain land for certain purposes]" because the  
9 phrases have the same meaning and the latter phrase is  
10 consistent with modern usage in laws relating to  
11 eminent domain.

12 (3) Section 25, Chapter 3, Acts of the 69th  
13 Legislature, 1st Called Session, 1985, provides the  
14 authority limited eminent domain authority. Section  
15 2206.101, Government Code, requires an entity with  
16 eminent domain authority to submit a letter with  
17 certain information to the comptroller not later than  
18 December 31, 2012, to prevent the entity's eminent  
19 domain authority from expiring on September 1, 2013.  
20 To avoid the appearance that this revision recognizes  
21 authority that the authority may not possess at the  
22 time of the revision, the revised law includes a  
23 provision setting out the requirements of Section  
24 2206.101, Government Code.

25 Revised Law

26 Sec. 8508.0115. COST OF RELOCATING OR ALTERING PROPERTY.

27 (a) In this section, "sole expense" means the actual cost of  
28 relocating, raising, lowering, rerouting, changing the grade of, or  
29 altering the construction of a facility described by Subsection (b)  
30 to provide comparable replacement without enhancement of the  
31 facility, after deducting from that cost the net salvage value  
32 derived from the old facility.

33 (b) If the authority's exercise of the power of eminent  
34 domain makes necessary relocating, raising, lowering, rerouting,

1 changing the grade of, or altering the construction of a highway,  
2 railroad, electric transmission or distribution line, telephone or  
3 telegraph property or facility, or pipeline, the necessary action  
4 shall be accomplished at the sole expense of the authority. (Acts  
5 69th Leg., 1st C.S., Ch. 3, Sec. 25(c).)

6 Source Law

7 (c) If the authority, in the exercise of the  
8 power of eminent domain, makes necessary the  
9 relocation, raising, lowering, rerouting, or change in  
10 grade, or alteration of the construction of any  
11 highway, railroad, electric transmission or  
12 distribution line, telephone or telegraph properties  
13 and facilities, or pipeline, all necessary  
14 relocations, raising, lowering, rerouting, change in  
15 grade, or alteration of construction shall be  
16 accomplished at the sole expense of the authority.  
17 "Sole expense" means the actual cost of relocation,  
18 raising, lowering, rerouting, or change in grade or  
19 alteration of construction to provide comparable  
20 replacement without enhancement of facilities, after  
21 deducting the net salvage value derived from the old  
22 facility.

23 Revised Law

24 Sec. 8508.0116. SALE, LEASE, EXCHANGE, OR OTHER DISPOSITION  
25 OF PROPERTY. The authority may:

26 (1) sell any property or interest in property owned by  
27 the authority by installments or otherwise, including a sale in any  
28 manner prescribed or authorized by:

29 (A) Section 552.014, Local Government Code;

30 (B) Chapter 30, Water Code; or

31 (C) Chapter 383, Health and Safety Code; or

32 (2) lease, exchange, or otherwise dispose of any  
33 property or interest in property. (Acts 69th Leg., 1st C.S., Ch. 3,  
34 Sec. 26(b).)

35 Source Law

36 (b) The authority also may sell any property or  
37 interest in property owned by the authority by  
38 installments or otherwise, including sales in any  
39 manner prescribed or authorized by Chapter 224, Acts  
40 of the 56th Legislature, Regular Session, 1959  
41 (Article 1109j, Vernon's Texas Civil Statutes),  
42 Chapter 30, Water Code, and the Clean Air Financing Act  
43 (Article 4477-5a, Vernon's Texas Civil Statutes). The  
44 authority may also lease, exchange, or otherwise  
45 dispose of any property or interest in property.

1                                    Revisor's Note

2                    Section 26(b), Chapter 3, Acts of the 69th  
3                    Legislature, 1st Called Session, 1985, refers to  
4                    Chapter 224, Acts of the 56th Legislature, Regular  
5                    Session, 1959 (Article 1109j, Vernon's Texas Civil  
6                    Statutes). Article 1109j was codified in 1987 as  
7                    Section 402.014, Local Government Code. Section  
8                    402.014, Local Government Code, was renumbered as  
9                    Section 552.014, Local Government Code, by Section  
10                   3.76(a)(2)(B), Chapter 885, Acts of the 80th  
11                   Legislature, Regular Session, 2007. The revised law  
12                   is drafted accordingly.

13                                   Revised Law

14                   Sec. 8508.0117. GENERAL CONTRACT POWERS.        (a)        The  
15                   authority may enter into a contract or execute an instrument that is  
16                   necessary or convenient for the exercise of its powers, rights,  
17                   duties, and functions or the accomplishment of its purposes.

18                   (b)        Notwithstanding any other law, the authority may:

19                          (1)        undertake and carry out an activity that is  
20                   related to or necessary in carrying out or performing a power or  
21                   function of the authority;

22                          (2)        enter into a contract, loan agreement, lease, or  
23                   installment sales agreement;

24                          (3)        acquire, purchase, construct, own, operate,  
25                   maintain, repair, improve, or extend, or loan, lease, sell, or  
26                   otherwise dispose of, including by such methods as a loan payment,  
27                   rental, sale, or installment sale, as the parties may agree, any  
28                   facility, plant, building, structure, equipment, or appliance or  
29                   property or any interest in property; and

30                          (4)        use any or all money or proceeds of bonds and other  
31                   obligations. (Acts 69th Leg., 1st C.S., Ch. 3, Secs. 29(a), (b).)

32                                   Source Law

33                          Sec. 29. (a)        The authority may enter into  
34                   contracts and execute instruments that are necessary  
35                   or convenient to the exercise of its powers, rights,

1 duties, and functions or the accomplishment of its  
2 purposes.

3 (b) Notwithstanding any other law, the  
4 authority may:

5 (1) undertake and carry out any activities  
6 that are related to or necessary in carrying out or  
7 performing any power or function of the authority;

8 (2) enter into contracts, loan agreements,  
9 leases, or installment sales agreements;

10 (3) acquire, purchase, construct, own,  
11 operate, maintain, repair, improve, or extend, and  
12 loan, lease, sell, or otherwise dispose of, including  
13 by such methods as loan payments, rentals, sales, and  
14 installment sales, as the parties may agree, any  
15 facilities, plants, buildings, structures, equipment,  
16 and appliances and property or any interest in  
17 property; and

18 (4) use any or all money or proceeds of  
19 bonds and other obligations.

20 Revised Law

21 Sec. 8508.0118. POWER OF PERSONS TO CONTRACT WITH  
22 AUTHORITY. (a) A person may contract with the authority in any  
23 manner authorized by this chapter, Chapter 30, Water Code, or  
24 Chapter 383, Health and Safety Code, with respect to water, waste,  
25 pollution control, or any other facility or any service provided by  
26 the authority.

27 (b) A public agency may enter into and execute a contract  
28 described by Subsection (a) with the authority and may determine,  
29 agree, and pledge that all or any part of its payments under the  
30 contract is payable from the source described in Section 30.030(c),  
31 Water Code, subject only to the authorization of the contract,  
32 pledge, and payments by the public agency's governing body. The  
33 public agency also may use and pledge any other available revenue or  
34 resource for payment of amounts due under the contract as an  
35 additional source of payment or as the sole source of payment.

36 (c) A public agency may:

37 (1) set fees, rates, charges, rentals, and other  
38 amounts, including water charges and garbage collection or handling  
39 fees, for any services or facilities provided by any utility  
40 operated by it, or provided pursuant to or in connection with any  
41 contract with the authority;

42 (2) charge those amounts to and collect those amounts  
43 from its inhabitants or from any users or beneficiaries of the

1 utility, services, or facilities; and

2 (3) use and pledge that money to make payments to the  
3 authority required under the contract and may covenant to do so in  
4 amounts sufficient to make all or any part of those payments to the  
5 authority when due.

6 (d) If a public agency and the authority agree in a  
7 contract, the payments made by the public agency to the authority  
8 under the contract are an expense of operation of any facilities or  
9 utility operated by the public agency. (Acts 69th Leg., 1st C.S.,  
10 Ch. 3, Secs. 29(c), (d).)

11 Source Law

12 (c) All persons are authorized to contract with  
13 the authority in any manner authorized by this Act,  
14 Chapter 30, Water Code, and the Clean Air Financing Act  
15 (Article 4477-5a, Vernon's Texas Civil Statutes) with  
16 respect to water, waste, pollution control, or any  
17 other facilities and any services provided by the  
18 authority. A public agency also may enter into and  
19 execute such a contract with the authority and may  
20 determine, agree, and pledge that all or any part of  
21 its payments under the contract is payable from the  
22 source described in Section 30.030(c), Water Code,  
23 subject only to the authorization of the contract,  
24 pledge, and payments by the governing body of the  
25 public agency. A public agency also may use and pledge  
26 any other available revenues or resources for payment  
27 of amounts due under those contracts, as an additional  
28 source or sources of payment or as the sole source or  
29 sources of payment.

30 (d) A public agency may fix, charge, and collect  
31 fees, rates, charges, rentals, and other amounts for  
32 any services or facilities provided by any utility  
33 operated by it, or provided pursuant to or in  
34 connection with any contract with the authority, from  
35 its inhabitants or from any users or beneficiaries of  
36 the utility, services, or facilities, including  
37 specifically water charges and garbage collection or  
38 handling fees and other fees or charges, and may use  
39 and pledge those funds to make payments to the  
40 authority required under the contract, and may  
41 covenant to do so in amounts sufficient to make all or  
42 any part of those payments to the authority when due.  
43 If the parties agree in the contract, those payments  
44 constitute an expense of operation of any facilities  
45 or utility operated by the public agency.

46 Revisor's Note

47 (1) Section 29(d), Chapter 3, Acts of the 69th  
48 Legislature, 1st Called Session, 1985, authorizes a  
49 public agency to "fix" fees, rates, charges, rentals,  
50 and other amounts for certain services or facilities.

1 The revised law substitutes "set" for "fix" because  
2 the terms are synonymous in this context and "set" is  
3 more commonly used.

4 (2) Section 29(d), Chapter 3, Acts of the 69th  
5 Legislature, 1st Called Session, 1985, authorizes a  
6 public agency to use and pledge certain "funds" to make  
7 certain payments. Throughout this chapter, the  
8 revised law substitutes "money" for "funds" because,  
9 in the context of money of a public agency or another  
10 entity, the meaning is the same and "money" is the more  
11 commonly used term.

12 Revised Law

13 Sec. 8508.0119. AWARD OF CERTAIN CONTRACTS. (a) The  
14 authority shall award a contract to the lowest and best bidder if:

15 (1) the contract is a:

16 (A) construction, maintenance, operation, or  
17 repair contract;

18 (B) contract for the purchase of material,  
19 equipment, or supplies; or

20 (C) contract for services other than technical,  
21 scientific, legal, fiscal, or other professional services; and

22 (2) the contract:

23 (A) will require an estimated expenditure of more  
24 than \$10,000; or

25 (B) is for a term of six months or more.

26 (b) If the board finds that an extreme emergency exists, the  
27 board may award a contract necessary to protect and preserve the  
28 public health and welfare or the property of the authority without  
29 using bidding procedures.

30 (c) The authority shall publish notice to bidders once each  
31 week for three consecutive weeks before the date set for awarding  
32 the contract. The notice must be published in a newspaper with  
33 general circulation in the authority and may also be published in  
34 any other appropriate publication.

1 (d) The notice is sufficient if it states:

2 (1) the time and place at which the bids will be  
3 opened;

4 (2) the terms on which copies of the plans,  
5 specifications, or other pertinent information may be obtained;

6 (3) the general nature of the work to be done; and

7 (4) the material, equipment, or supplies to be  
8 purchased or the nonprofessional services to be rendered.

9 (e) A person who desires to bid on the construction of a work  
10 or project that is advertised for bids shall, on written  
11 application to the authority, be provided a copy of the plans and  
12 specifications or other engineering and architectural documents  
13 showing all of the details of the work to be done. The authority may  
14 make a charge to cover the cost of making the copy.

15 (f) A bid must be:

16 (1) in writing;

17 (2) sealed and delivered to the authority; and

18 (3) accompanied by a certified check drawn on a  
19 responsible bank in this state or, at the discretion of the  
20 authority, a bid bond from a company approved by the authority, in  
21 an amount equal to at least one percent of the total amount bid.

22 (g) The authority shall open bids at the place specified in  
23 the published notice. The authority shall announce the bids. The  
24 place where the bids are opened and announced must be open to the  
25 public. The board shall make the award of the contract.

26 (h) The person with whom a contract is made shall provide  
27 the performance and payment bonds required by law.

28 (i) A check or bond provided under Subsection (f) is  
29 forfeited to the authority if the successful bidder fails or  
30 refuses to:

31 (1) enter into a proper contract; or

32 (2) provide a bond as required by law.

33 (j) The authority may reject any or all bids and may waive  
34 any irregularity in the bids.

1 (k) This section does not prohibit the authority from taking  
2 the following actions by negotiated contract and without necessity  
3 for advertising for bids:

4 (1) purchasing or acquiring land or an interest in  
5 land from any person;

6 (2) acquiring, constructing, or improving pollution  
7 control or waste collection and disposal facilities as provided by  
8 Chapter 30, Water Code, Chapter 383, Health and Safety Code, or  
9 other applicable law; or

10 (3) purchasing or acquiring surplus property from a  
11 governmental entity. (Acts 69th Leg., 1st C.S., Ch. 3, Secs. 30(a),  
12 (b), (c), (d), (e), (g), (h).)

13 Source Law

14 Sec. 30. (a) A construction, maintenance,  
15 operation, or repair contract, a contract for the  
16 purchase of material, equipment, or supplies, or a  
17 contract for services other than technical,  
18 scientific, legal, fiscal, or other professional  
19 services, that will require an estimated expenditure  
20 of more than \$10,000, or is for a term of six months or  
21 more, shall be awarded to the lowest and best bidder.  
22 A notice to bidders shall be published once each week  
23 for three consecutive weeks before the date set for  
24 awarding the contract. If the board finds that an  
25 extreme emergency exists, the board may award  
26 contracts necessary to protect and preserve the public  
27 health and welfare or the property of the authority  
28 without using the bidding procedures.

29 (b) The notice of bids is sufficient if it  
30 states the time and place at which the bids will be  
31 opened, the general nature of the work to be done, the  
32 material, equipment, or supplies to be purchased, or  
33 the nonprofessional services to be rendered, and  
34 states the terms on which copies of the plans,  
35 specifications, or other pertinent information may be  
36 obtained.

37 (c) Notice shall be published in a newspaper  
38 with general circulation in the authority and may also  
39 be published in any other appropriate publication.

40 (d) A person who desires to bid on the  
41 construction of any work or project that is advertised  
42 for bids shall, on written application to the  
43 authority, be furnished with a copy of the plans and  
44 specifications or other engineering and architectural  
45 documents showing the work to be done and all of the  
46 details of the work to be done. The authority may make  
47 a charge to cover the cost of making the copy. Bids  
48 must be in writing, and sealed and delivered to the  
49 authority, and must be accompanied by a certified  
50 check on a responsible bank in this state or, at the  
51 discretion of the authority, a bid bond from a company  
52 approved by the authority, for at least one percent of  
53 the total amount bid. The check or bond is forfeited  
54 to the authority if the successful bidder fails or



1 refuses to enter into a proper contract or fails or  
2 refuses to furnish bond as required by law. Any or all  
3 bids may be rejected by the authority, and the  
4 authority may waive any irregularity in the bids.

5 (e) Bids shall be opened at the place specified  
6 in the published notice and shall be announced by the  
7 authority. The place where the bids are opened and  
8 announced shall be open to the public. The award of  
9 the contract shall be made by the board.

10 (g) The person, firm, or corporation with whom  
11 the contract is made shall provide the performance and  
12 payment bonds required by law.

13 (h) This section does not prohibit the authority  
14 from purchasing or acquiring land or interests in land  
15 from any person, or from acquiring, constructing, or  
16 improving pollution control or waste collection and  
17 disposal facilities as provided by Chapter 30, Water  
18 Code, the Clean Air Financing Act (Article 4477-5a,  
19 Vernon's Texas Civil Statutes), or other applicable  
20 laws, or purchasing or acquiring surplus property from  
21 a governmental entity by negotiated contract and  
22 without necessity for advertising for bids.

#### 23 Revisor's Note

24 Section 30(g), Chapter 3, Acts of the 69th  
25 Legislature, 1st Called Session, 1985, requires a  
26 person, "firm, or corporation" to provide certain  
27 bonds. The revised law omits the quoted language  
28 because under Section 311.005(2), Government Code  
29 (Code Construction Act), "person" is defined to  
30 include any legal entity.

#### 31 Revised Law

32 Sec. 8508.0120. CONSTRUCTION CONTRACTS: PAYMENT. (a) The  
33 contract price of any construction contract of the authority may be  
34 paid in partial payments as the work progresses, but the payments  
35 may not exceed 90 percent of the amount due at the time of the  
36 payments as shown by the report of the engineer of the authority.

37 (b) During the progress of the work, the executive director  
38 shall inspect the construction or have the construction inspected  
39 by the authority's engineer or the engineer's assistants.

40 (c) On certification of the executive director and the  
41 authority's engineer of the completion of the contract in  
42 accordance with its terms and, in the case of any construction  
43 contract for which notice to bidders is required by this chapter, on  
44 approval of the board, the board shall draw a warrant on its

1 depository to pay the balance due on the contract. (Acts 69th Leg.,  
2 1st C.S., Ch. 3, Sec. 30(f).)

3 Source Law

4 (f) The contract price of all construction  
5 contracts of the authority may be paid in partial  
6 payment as the work progresses, but the payments shall  
7 not exceed 90 percent of the amount due at the time of  
8 the payment as shown by the report of the engineer of  
9 the authority. During the progress of the work, the  
10 executive director shall inspect the construction or  
11 have the construction inspected by the authority's  
12 engineer or his assistants. On certification of the  
13 executive director and the authority's engineer of the  
14 completion of the contract in accordance with its  
15 terms, and in the case of any construction contract for  
16 which notice to bidders is required by this Act, on  
17 approval of the board, the board shall draw a warrant  
18 on its depository to pay the balance due on the  
19 contract.

20 Revised Law

21 Sec. 8508.0121. CONFLICT OF INTEREST IN CONTRACT. An  
22 officer, agent, or employee of the authority who is financially  
23 interested in a contract shall disclose that fact to the board  
24 before the board votes on the acceptance of the contract. (Acts  
25 69th Leg., 1st C.S., Ch. 3, Sec. 30(i).)

26 Source Law

27 (i) An officer, agent, or employee of the  
28 authority who is financially interested in a contract  
29 shall disclose that fact to the board before the board  
30 votes on the acceptance of the contract.

31 Revised Law

32 Sec. 8508.0122. SURVEYS AND ENGINEERING INVESTIGATIONS.  
33 The authority may make surveys and engineering investigations to  
34 develop information for its use. (Acts 69th Leg., 1st C.S., Ch. 3,  
35 Sec. 34 (part).)

36 Source Law

37 Sec. 34. The authority may make surveys and  
38 engineering investigations to develop information for  
39 its use, and . . . .

40 Revised Law

41 Sec. 8508.0123. PLANS. The board may make and determine  
42 plans necessary to accomplish the purposes for which the authority  
43 is created and may carry out the plans. (Acts 69th Leg., 1st C.S.,  
44 Ch. 3, Sec. 34 (part).)

1                                    Source Law

2                    Sec. 34. . . . the board may make and determine  
3                    plans necessary to accomplish the purposes for which  
4                    the authority is created and may carry out the plans.

5                                    Revised Law

6                    Sec. 8508.0124. ACCESS TO AUTHORITY PROPERTY. (a) To  
7                    provide for the safety and welfare of persons and their property or  
8                    for the protection and security of the authority's property and  
9                    facilities, the board may adopt rules with respect to the  
10                   authority's property and any water reservoir or dam the  
11                   construction, operation, or management of which is participated in  
12                   by the authority to control and regulate:

13                            (1) ingress, egress, and use; and

14                            (2) the operation of land and water vehicles.

15                    (b) All public roads, streets, and state highways that as of  
16                    August 29, 1985, traversed the areas to be covered by any impounded  
17                    water shall remain open as a way of public passing to and from the  
18                    lakes created, unless changed by the authority. (Acts 69th Leg.,  
19                    1st C.S., Ch. 3, Sec. 35.)

20                                    Source Law

21                    Sec. 35. (a) To provide for the safety and  
22                    welfare of persons and their property or for the  
23                    protection and security of the property and facilities  
24                    of the authority, the board may adopt rules with  
25                    respect to the property of the authority and any water  
26                    reservoir or dam, the construction, operation, or  
27                    management of which is participated in by the  
28                    authority, to control and regulate ingress, egress,  
29                    and use, and the operation of land and water vehicles.

30                    (b) All public roads, streets, and state  
31                    highways now traversing the areas to be covered by any  
32                    impounded water shall remain open as a way of public  
33                    passing to and from the lakes created, unless changed  
34                    by the authority.

35                                    Revisor's Note

36                    Section 35(b), Chapter 3, Acts of the 69th  
37                    Legislature, 1st Called Session, 1985, refers to  
38                    public roads, streets, and state highways "now"  
39                    traversing certain areas. The revised law refers to  
40                    public roads, streets, and state highways "that as of  
41                    August 29, 1985," traversed those areas because that

1 was the effective date of Chapter 3.

2 Revised Law

3 Sec. 8508.0125. AUTHORITY TO EXERCISE POWERS OF POLITICAL  
4 SUBDIVISIONS UNDER WATER CODE. The authority may exercise:

5 (1) the powers vested in political subdivisions under  
6 Title 2, Water Code; and

7 (2) the powers necessary to enable the authority to  
8 participate in programs administered by the development board,  
9 including programs for:

10 (A) the acquisition and development of  
11 facilities;

12 (B) the sale or lease of facilities; and

13 (C) financial assistance to political  
14 subdivisions. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 37.)

15 Source Law

16 Sec. 37. (a) The authority has and may  
17 exercise all the powers vested in political  
18 subdivisions under Title 2, Water Code.

19 (b) The authority has and may exercise the  
20 powers necessary to enable the authority to  
21 participate in the programs administered by the  
22 development board for the acquisition and development  
23 of facilities, the sale or lease of facilities,  
24 financial assistance to political subdivisions, and  
25 other programs administered by the development board.

26 Revised Law

27 Sec. 8508.0126. LIMITATIONS ON POWERS AND DUTIES OF  
28 AUTHORITY; COMMISSION APPROVAL OF CERTAIN PLANS. (a) The powers  
29 granted and duties prescribed by this chapter are subject to all  
30 legislative declarations of public policy in the maximum use of the  
31 storm water, floodwater, and unappropriated flow water of the basin  
32 for the purposes for which the authority is created.

33 (b) The commission shall consider the adequacy of, and  
34 approve or refuse to approve, any flood control or conservation  
35 improvement plan that:

36 (1) is devised by the authority to achieve a plan or  
37 purpose for which the authority was created; and

38 (2) contemplates improvements that are to be

1 supervised by the commission under general law. (Acts 69th Leg.,  
2 1st C.S., Ch. 3, Secs. 39(a) (part), (b).)

3 Source Law

4 Sec. 39. (a) The powers and duties granted and  
5 prescribed by this Act are taken subject to all  
6 legislative declarations of public policy in the  
7 maximum use of the storm water, floodwater, and  
8 unappropriated flow water of the basin for the  
9 purposes for which the authority is created and . . . .

10 (b) The commission shall approve or refuse to  
11 approve the adequacy of any plan or plans for flood  
12 control or conservation improvement purposes devised  
13 by the authority for the achievement of the plans and  
14 purposes intended in the creation of the authority and  
15 that contemplate improvements supervised by the  
16 commission under general law.

17 Revisor's Note

18 Section 39(a), Chapter 3, Acts of the 69th  
19 Legislature, 1st Called Session, 1985, provides that  
20 the powers and duties of the authority are subject to  
21 the supervision of the state, acting through the  
22 commission. The revised law omits the provision  
23 because it duplicates, in substance, part of Section  
24 12.081, Water Code, which is a general law that applies  
25 to the authority. The omitted law reads:

26 Sec. 39. (a) [The powers and duties  
27 granted and prescribed by this Act are]  
28 . . . subject to the continuing right of  
29 supervision of the state through the  
30 commission.

31 Revised Law

32 Sec. 8508.0127. SUITS. (a) The authority may sue and be  
33 sued in the name of the authority.

34 (b) Service of process may be accomplished by serving the  
35 presiding officer or a vice president of the board or the executive  
36 director. (Acts 69th Leg., 1st C.S., Ch. 3, Secs. 15(a), (b).)

37 Source Law

38 Sec. 15. (a) The authority may sue and be sued  
39 in the name of the authority.

40 (b) Service of process may be accomplished by  
41 serving the president or vice-president of the board  
42 or the executive director.

43 Revisor's Note

44 (1) Section 15(b), Chapter 3, Acts of the 69th

Legislature, 1st Called Session, 1985, refers to the "president" of the board, meaning the board's presiding officer. For consistency with other sections of this chapter, the revised law substitutes "presiding officer" for "president."

(2) Section 15(c), Chapter 3, Acts of the 69th Legislature, 1st Called Session, 1985, requires courts to take judicial notice of the establishment of the authority. The revised law omits that provision because it duplicates, in substance, part of Section 49.066, Water Code. The omitted law reads:

(c) All courts of this state shall take judicial notice of the establishment of the district.

Revisor's Note  
(End of Subchapter)

(1) Section 14, Chapter 3, Acts of the 69th Legislature, 1st Called Session, 1985, requires the authority to adopt a seal. The revised law omits that provision because it duplicates Section 49.061, Water Code. The omitted law reads:

Sec. 14. The authority shall adopt a seal.

(2) Section 28, Chapter 3, Acts of the 69th Legislature, 1st Called Session, 1985, provides that the authority may use public roadways, streets, or alleys or public easements. The revised law omits the provision because it duplicates, in substance, Section 49.220, Water Code. The omitted law reads:

Sec. 28. The authority may use any public roadways, streets, alleys, or public easements inside or outside the boundaries of the authority in the exercise of its powers or the accomplishment of its purposes without the necessity of securing a franchise.

SUBCHAPTER D. REGULATORY POWERS; ENFORCEMENT AND COURT REVIEW  
PROVISIONS

Revised Law

Sec. 8508.0151. ADOPTION AND ENFORCEMENT OF RULES. (a) The authority may adopt and enforce rules reasonably required to carry out this chapter.

(b) The board shall adopt rules necessary for the conduct of the authority's business.

(c) In adopting rules, the board shall comply, as appropriate, with the requirements of Chapters 2001 and 2002, Government Code.

(d) The board shall print its rules and provide copies to any person on written request. (Acts 69th Leg., 1st C.S., Ch. 3, Secs. 6(h), 31.)

## Source Law

[Sec. 6]

(h) The board shall adopt and may amend necessary rules for the conduct of the authority's business.

Sec. 31. (a) The authority may adopt and enforce rules reasonably required to carry out this Act.

(b) In adopting rules, the board shall comply, as appropriate, with the requirements of the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(c) The board shall print its rules and furnish copies to any person on written request.

## Revisor's Note

(1) Section 6(h), Chapter 3, Acts of the 69th Legislature, 1st Called Session, 1985, provides that the board "shall adopt and may amend" rules for conducting the authority's business. The revised law omits the provision authorizing the board to amend rules because the duty to adopt rules implies the power to amend rules.

(2) Section 31(b), Chapter 3, Acts of the 69th Legislature, 1st Called Session, 1985, refers to "the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)."

Article 6252-13a was revised in 1993 as Chapters 2001

1 and 2002, Government Code. The revised law is drafted  
2 accordingly.

3 Revised Law

4 Sec. 8508.0152. CIVIL PENALTY; INJUNCTIVE RELIEF. (a) A  
5 person who violates a rule or order of the authority is subject to a  
6 civil penalty of not less than \$50 or more than \$1,000 for each day  
7 of violation.

8 (b) The authority may sue to recover the penalty in a  
9 district court in the county in which the violation occurred. A  
10 penalty shall be paid to the authority.

11 (c) The authority may sue for injunctive relief in a  
12 district court in the county in which the violation of a rule or  
13 order occurred or is threatened.

14 (d) The authority may sue for injunctive relief and a  
15 penalty in the same proceeding. (Acts 69th Leg., 1st C.S., Ch. 3,  
16 Sec. 32.)

17 Source Law

18 Sec. 32. (a) A person who violates a rule or  
19 order of the authority is subject to a civil penalty of  
20 not less than \$50 nor more than \$1,000 for each day of  
21 violation.

22 (b) The authority may sue to recover the penalty  
23 in a district court in the county in which the  
24 violation occurred. Penalties shall be paid to the  
25 authority.

26 (c) The authority may sue for injunctive relief  
27 in a district court in the county in which the  
28 violation of any rule or orders occurred or is  
29 threatened.

30 (d) The authority may sue for injunctive relief  
31 and penalties in the same proceeding.

32 Revised Law

33 Sec. 8508.0153. COURT REVIEW. (a) A person who is  
34 adversely affected by a rule or order of the authority may sue the  
35 authority in a district court to set aside the rule or order before  
36 the 31st day after the date on which the rule or order takes effect.

37 (b) Venue for a suit under Subsection (a) is in any county  
38 located wholly or partly in the authority. (Acts 69th Leg., 1st  
39 C.S., Ch. 3, Sec. 33.)



1                                    Source Law

2                    Sec. 33. (a) A person who is adversely  
3 affected by a rule or order of the authority may sue  
4 the authority in a district court to set aside the rule  
5 or order before the 31st day after the day on which the  
6 rule or order takes effect.

7                    (b) Venue for suits under Subsection (a) of this  
8 section is in any county located wholly or partially in  
9 the authority.

10                                SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

11                                    Revised Law

12                    Sec. 8508.0201. DISBURSEMENT OF MONEY. The authority may  
13 disburse its money only by a check, draft, order, or other  
14 instrument signed by the person or persons authorized in the  
15 board's rules or by board resolution. (Acts 69th Leg., 1st C.S.,  
16 Ch. 3, Sec. 40.)

17                                    Source Law

18                    Sec. 40. The authority's money may be disbursed  
19 only by check, draft, order, or other instrument,  
20 signed by the person or persons authorized in the  
21 board's rules, or by resolution of the board.

22                                    Revised Law

23                    Sec. 8508.0202. ACCOUNTS, CONTRACTS, AND OTHER RECORDS;  
24 PUBLIC INSPECTION. (a) The authority shall keep complete and  
25 accurate accounts of its business transactions in accordance with  
26 generally accepted methods of accounting.

27                    (b) The authority shall keep its accounts, contracts,  
28 documents, minutes, and other records at its principal office.

29                    (c) Except as otherwise required by law, the authority may  
30 not disclose any records that it has relating to trade secrets or  
31 the economics of operation of any business or industry.

32                    (d) Except as provided by Subsection (c), the authority  
33 shall permit reasonable public inspection of its records during  
34 regular business hours under rules adopted by the board. (Acts 69th  
35 Leg., 1st C.S., Ch. 3, Secs. 13(a), (c), (d), (e).)

36                                    Source Law

37                    Sec. 13. (a) The authority shall keep complete  
38 and accurate accounts of its business transactions in  
39 accordance with generally accepted methods of  
40 accounting.

1 (c) The authority shall keep its accounts,  
2 contracts, documents, minutes, and other records at  
3 its principal office.

4 (d) Except as otherwise required by law, the  
5 authority shall not disclose any records that it has  
6 relating to trade secrets or economics of operation of  
7 any business or industry.

8 (e) Except as provided by Subsection (d) of this  
9 section, the authority shall permit reasonable public  
10 inspection of its records during regular business  
11 hours under rules adopted by the board.

12 Revised Law

13 Sec. 8508.0203. FEES AND CHARGES. (a) The authority shall  
14 establish fees and charges.

15 (b) The fees and charges may not exceed the amount necessary  
16 to fulfill the obligations imposed by this chapter. (Acts 69th  
17 Leg., 1st C.S., Ch. 3, Sec. 41.)

18 Source Law

19 Sec. 41. The authority shall establish fees and  
20 charges that may not be higher than necessary to  
21 fulfill the obligations imposed by this Act.

22 Revised Law

23 Sec. 8508.0204. TRUST MONEY. Money collected by or  
24 donated, granted, loaned, or advanced to the authority is trust  
25 money for the purposes provided by this chapter. (Acts 69th Leg.,  
26 1st C.S., Ch. 3, Sec. 44.)

27 Source Law

28 Sec. 44. Money collected by or donated,  
29 granted, loaned, or advanced to the authority is  
30 declared to be trust funds for the purposes provided by  
31 this Act.

32 Revised Law

33 Sec. 8508.0205. TAXES AND TAX DEBT PROHIBITED. The  
34 authority may not:

35 (1) impose a tax; or

36 (2) create debt payable from taxes. (Acts 69th Leg.,  
37 1st C.S., Ch. 3, Sec. 1(c).)

38 Source Law

39 (c) The authority created under this section may  
40 not levy any taxes or create any debt payable out of  
41 taxation.

42 Revisor's Note

43 (1) Section 1(c), Chapter 3, Acts of the 69th

1 Legislature, 1st Called Session, 1985, refers to  
2 "[t]he authority created under this section." The  
3 revised law omits the phrase "created under this  
4 section" because "authority" is a defined term under  
5 this chapter.

6 (2) Section 1(c), Chapter 3, Acts of the 69th  
7 Legislature, 1st Called Session, 1985, provides that  
8 the authority may not "levy" taxes. The revised law  
9 substitutes "impose" for "levy" because "impose" is  
10 the term generally used in Title 1, Tax Code, and  
11 includes the levy of a tax.

12 Revised Law

13 Sec. 8508.0206. DEPOSITORY. (a) The board shall designate  
14 one or more banks inside or outside the authority to serve as a  
15 depository for the authority's money.

16 (b) Authority money shall be deposited in a depository bank,  
17 except that the following may be handled as provided in a trust  
18 indenture or resolution:

- 19 (1) bond proceeds or proceeds of other obligations;  
20 (2) money pledged to pay the obligations described by  
21 Subdivision (1);  
22 (3) money placed in special funds; and  
23 (4) money remitted to a bank of payment for the payment  
24 of the principal of and interest on obligations.

25 (c) To the extent that money in a depository bank or a  
26 trustee bank is not invested or insured by the Federal Deposit  
27 Insurance Corporation, the money must be secured in the manner  
28 provided by law for the security of county money.

29 (d) The board shall prescribe the term of service for a  
30 depository.

31 (e) Before designating a depository bank, the board shall:  
32 (1) publish notice one time in one or more newspapers  
33 of general circulation in the authority that are specified by the  
34 board; or

1           (2) mail a copy of the notice to each bank inside the  
2 authority.

3           (f) The notice must:

4               (1) state the time and place at which the board will  
5 meet to designate a depository bank or banks; and

6               (2) invite the banks to submit an application to be  
7 designated a depository.

8           (g) At the time stated in the notice, the board shall:

9               (1) consider the application and the management and  
10 condition of each bank that applies; and

11              (2) designate as a depository the bank or banks:

12                   (A) that offer the most favorable terms for  
13 handling the money; and

14                   (B) that the board finds have proper management  
15 and are in condition to handle the money.

16           (h) Membership on the board of an officer or director of a  
17 bank does not disqualify the bank from being designated as a  
18 depository.

19           (i) If the board does not receive an application before the  
20 time stated in the notice, the board shall designate one or more  
21 banks inside or outside the authority as a depository on terms the  
22 board considers advantageous to the authority. (Acts 69th Leg.,  
23 1st C.S., Ch. 3, Sec. 47.)

24                                   Source Law

25           Sec. 47. (a) The board shall designate one or  
26 more banks inside or outside the authority to serve as  
27 depository for the funds of the authority.

28           (b) All money of the authority shall be  
29 deposited in the depository bank or banks except that  
30 bond proceeds or proceeds of other obligations, money  
31 pledged to pay those obligations, money placed in  
32 special funds, and money remitted to a bank of payment  
33 for the payment of the principal of and interest on  
34 obligations, may be handled as provided in a trust  
35 indenture or resolution.

36           (c) To the extent that funds in the depository  
37 banks or a trustee bank are not invested or insured by  
38 the Federal Deposit Insurance Corporation, they shall  
39 be secured in the manner provided by law for the  
40 security of county funds.

41           (d) Before designating a depository bank or  
42 banks, the board shall issue a notice stating the time  
43 and place at which the board will meet to designate the

1 depositories and inviting the banks to submit  
2 applications to be designated depositories. The term  
3 of service for depositories shall be prescribed by the  
4 board. The notice shall be published one time in a  
5 newspaper or newspapers of general circulation in the  
6 authority and specified by the board, or in lieu of  
7 publication, a copy of the notice may be mailed to each  
8 bank inside the boundaries of the authority.

9 (e) At the time stated in the notice, the board  
10 shall consider the applications and the management and  
11 conditions of the banks filing them, and shall  
12 designate as depositories the bank or banks that offer  
13 the most favorable terms and conditions for the  
14 handling of the funds of the authority and that the  
15 board finds have proper management and are in  
16 condition to warrant handling of authority funds.  
17 Membership on the board of an officer or director of a  
18 bank does not disqualify the bank from being  
19 designated as depository.

20 (f) If no applications are received by the time  
21 stated in the notice, the board shall designate a bank  
22 or banks inside or outside the authority as depository  
23 on terms and conditions the board considers  
24 advantageous to the authority.

#### 25 Revisor's Note

26 Sections 47(e) and (f), Chapter 3, Acts of the  
27 69th Legislature, 1st Called Session, 1985, refer to  
28 the "terms and conditions" that a bank proposes or  
29 agrees to for serving as the authority's depository.  
30 The revised law omits "conditions" because, in this  
31 context, the meaning of "conditions" is included in  
32 the meaning of "terms."

#### 33 Revised Law

34 Sec. 8508.0207. INVESTMENT OF AUTHORITY MONEY; APPLICATION  
35 OF INCOME FROM INVESTMENTS. (a) Money in the treasury that is not  
36 required for the current payment of obligations of the authority or  
37 for sinking funds and that the board considers available for  
38 investment may be invested or reinvested by the authority in:

39 (1) direct obligations of the United States;

40 (2) obligations the principal and interest of which  
41 are guaranteed by the United States;

42 (3) direct obligations of or participation  
43 certificates guaranteed by:

44 (A) a farm credit bank;

45 (B) the Federal National Mortgage Association;

46 (C) a federal home loan bank; or

1 (D) a bank for cooperatives;

2 (4) certificates of deposit of a bank or trust company  
3 the deposits of which are fully secured by a pledge of securities of  
4 any of the institutions specified by this subsection;

5 (5) other securities eligible for investment under  
6 other laws; or

7 (6) a combination of the investments listed in this  
8 subsection.

9 (b) The board shall determine the type and maturity of  
10 investments made under this section.

11 (c) A resolution relating to the issuance of bonds or other  
12 obligations must include appropriate provisions relating to the  
13 investment of money in funds established in connection with the  
14 authorization of those bonds or other obligations.

15 (d) The board shall direct the application of income from  
16 investments made under this section. (Acts 69th Leg., 1st C.S., Ch.  
17 3, Sec. 45.)

18 Source Law

19 Sec. 45. (a) Funds in the treasury that are not  
20 required for current payment of obligations of the  
21 authority or for sinking funds and that the board  
22 considers available for investment may be invested or  
23 reinvested by the authority in:

24 (1) direct obligations of or obligations  
25 the principal and interest of which are guaranteed by  
26 the United States;

27 (2) direct obligations of or participation  
28 certificates guaranteed by the Federal Intermediate  
29 Credit Banks, Federal Land Banks, Federal National  
30 Mortgage Association, Federal Home Loan Banks, and  
31 Banks for Cooperatives;

32 (3) certificates of deposit of any bank or  
33 trust company the deposits of which are fully secured  
34 by a pledge of securities of any of the institutions  
35 specified in this subsection;

36 (4) any other securities eligible for  
37 investment under other laws; or

38 (5) any combination of the investments  
39 listed in this subsection.

40 (b) The type and maturity of investments made  
41 under this section shall be determined by the board  
42 which, in the case of funds established in connection  
43 with the authorization of bonds or other obligations,  
44 shall include appropriate provisions relating to those  
45 investments in the resolution relating to the issuance  
46 of those bonds. Income and profits on such investments  
47 shall be applied as directed by the board.

1 Revisor's Note

2 (1) Section 45(a), Chapter 3, Acts of the 69th  
3 Legislature, 1st Called Session, 1985, refers to  
4 investment or reinvestment in direct obligations of or  
5 participation certificates guaranteed by the "Federal  
6 Intermediate Credit Banks" and the "Federal Land  
7 Banks." Under the Agricultural Credit Act of 1987  
8 (Pub. L. No. 100-233), each of the 12 federal  
9 intermediate credit banks was merged with a federal  
10 land bank to create 12 farm credit banks. See 12  
11 U.S.C. Section 2011. The revised law reflects that  
12 change.

13 (2) Section 45(b), Chapter 3, Acts of the 69th  
14 Legislature, 1st Called Session, 1985, provides that,  
15 in the case of funds established in connection with the  
16 authorization of "bonds or other obligations," the  
17 resolution relating to the issuance of "those bonds"  
18 shall include certain provisions. The revised law  
19 refers to a resolution relating to the issuance of  
20 "bonds or other obligations" for consistency of  
21 terminology.

22 (3) Section 45(b), Chapter 3, Acts of the 69th  
23 Legislature, 1st Called Session, 1985, refers to  
24 "[i]ncome and profits" from investments. The revised  
25 law omits the reference to "profits" because "profits"  
26 is included in the meaning of "income."

27 Revised Law

28 Sec. 8508.0208. FISCAL YEAR. The authority's fiscal year  
29 ends on August 31 of each year. (Acts 69th Leg., 1st C.S., Ch. 3,  
30 Sec. 46(a).)

31 Source Law

32 Sec. 46. (a) The fiscal year of the authority  
33 ends on August 31 of each year.





1 in the revisor's notes that follow, certain procedural  
2 requirements of Section 46, Chapter 3, have been  
3 omitted as superseded by Subchapter G, Chapter 49,  
4 Water Code. Section 49.191(b), Water Code, provides  
5 that in all areas of conflict Subchapter G "shall take  
6 precedence over all prior statutory enactments."

7 For context and the convenience of the reader,  
8 the revised law adds references to the audit report  
9 prepared under Subchapter G, Chapter 49, Water Code,  
10 and to Section 49.194 of that code, which governs the  
11 filing of the report.

12 The revised law omits the requirement that a copy  
13 of the audit report be filed with the authority because  
14 it duplicates or is superseded by Section 49.194(c),  
15 Water Code.

16 The Texas Commission on Environmental Quality is  
17 the successor to the Texas Water Commission. The  
18 revised law omits a requirement that a copy of the  
19 audit report be filed with the Texas Commission on  
20 Environmental Quality because it duplicates or is  
21 superseded by Section 49.194(a), Water Code.

22 (2) Section 46(b), Chapter 3, Acts of the 69th  
23 Legislature, 1st Called Session, 1985, provides that,  
24 on or before January 1 following the close of each  
25 fiscal year, the state auditor shall audit the books  
26 and accounts of the authority for the preceding fiscal  
27 year. The revised law omits that provision as  
28 superseded by Section 49.191, Water Code (enacted by  
29 Section 2, Chapter 715, Acts of the 74th Legislature,  
30 Regular Session, 1995), which requires an annual audit  
31 by a certified public accountant or public accountant  
32 holding a permit from the Texas State Board of Public  
33 Accountancy to be completed within 120 days after the  
34 close of the authority's fiscal year. The omitted law

1 reads:

2 (b) On or before January 1 following  
3 the close of each fiscal year, the state  
4 auditor shall audit the books and accounts  
5 of the authority for the preceding fiscal  
6 year.

7 (3) Section 46(e), Chapter 3, Acts of the 69th  
8 Legislature, 1st Called Session, 1985, prescribes the  
9 procedure for the reimbursement of the state by the  
10 authority for the cost of the audit. The revised law  
11 omits that provision because, to the extent it  
12 requires the authority to pay the cost of the audit, it  
13 duplicates Section 49.191(a), Water Code, and, to the  
14 extent it requires that the payment be made to the  
15 state, it is superseded by Sections 49.191(b) and (c),  
16 Water Code (enacted by Section 2, Chapter 715, Acts of  
17 the 74th Legislature, Regular Session, 1995), which  
18 provide that the person who performs the audit shall be  
19 a certified public accountant or public accountant  
20 holding a permit from the Texas State Board of Public  
21 Accountancy. The omitted law reads:

22 (e) After completing the audit  
23 report, the state auditor shall prepare a  
24 statement showing the actual cost of the  
25 audit and shall certify the statement to the  
26 governor for his approval. After the  
27 statement is approved by the governor, it  
28 shall be delivered to the authority. The  
29 authority shall pay for the cost of the  
30 audit by depositing the money for the audit  
31 with the state treasurer, who shall place  
32 the money in the general revenue fund.

33 (4) Section 46(f), Chapter 3, Acts of the 69th  
34 Legislature, 1st Called Session, 1985, provides that  
35 Section 46 does not prohibit the authority from  
36 employing the professional services of accountants for  
37 any purposes. The revised law omits that provision as  
38 unnecessary because the provisions of Section 46  
39 pertaining to the conducting of the audit by the state  
40 auditor are omitted from the revised law for the reason  
41 stated in Revisor's Notes (2) and (3) and therefore

1       there is no reason the revised law would be interpreted  
2       as prohibiting the authority from employing the  
3       services of an accountant for any purpose. The omitted  
4       law reads:

5               (f) This section does not prohibit  
6       the authority from employing the  
7       professional services of accountants for  
8       any purposes.

9       SUBCHAPTER F. OBLIGATIONS RELATING TO BORROWED MONEY OR GRANTS

10                   Revised Law

11       Sec. 8508.0251. LOANS AND GRANTS. (a) The authority may:

12               (1) borrow money or accept a grant or donation for its  
13       corporate purposes from any person, including a private source, the  
14       United States, this state, or a local government; and

15               (2) enter into an agreement in connection with a loan,  
16       grant, or donation accepted under Subdivision (1).

17       (b) The source of money accepted by the authority is public  
18       information. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 42.)

19                   Source Law

20       Sec. 42. (a) The authority may borrow money and  
21       accept grants and donations for its corporate purposes  
22       from private sources, the United States, the state,  
23       local governments, or any other person. The authority  
24       may enter into any agreement in connection with the  
25       loan, grant, or donation that is not in conflict with  
26       the constitution and laws of this state.

27       (b) The sources of any funds accepted by the  
28       authority are public information.

29                   Revisor's Note

30       Section 42(a), Chapter 3, Acts of the 69th  
31       Legislature, 1st Called Session, 1985, provides that  
32       the authority may enter into an agreement "that is not  
33       in conflict with the constitution and laws of this  
34       state." The revised law omits the quoted language  
35       because the absence of the language does not imply that  
36       the authority is authorized to take actions  
37       inconsistent with the constitution and laws of this  
38       state.

1 Revised Law

2 Sec. 8508.0252. POWER TO APPLY FOR MONEY FOR ENGINEERING  
3 SURVEYS, DATA COMPILATION AND COLLECTION, AND OTHER PURPOSES. (a)  
4 The authority may apply to this state, the United States, or any  
5 other person for money necessary to:

6 (1) secure engineering surveys and the compilation and  
7 collection of data relating to regional and general conditions  
8 entering into and influencing the character and extent of the  
9 improvements necessary to accomplish the storage, control,  
10 transportation, treatment, conservation, and equitable  
11 distribution to the greatest public advantage of the storm water,  
12 floodwater, and normal flow water that is stored and controlled; or

13 (2) accomplish or carry out any of the other purposes  
14 of this chapter.

15 (b) The authority:

16 (1) shall request an amount it considers sufficient;

17 (2) may make the necessary agreements with the party  
18 providing the money; and

19 (3) may appropriate the amount of the estimated  
20 equitable contribution of the costs of developing essential  
21 engineering data. (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 43.)

22 Source Law

23 Sec. 43. The authority may apply to the state,  
24 the United States, or any other person for funds  
25 necessary to secure engineering surveys and the  
26 compilation and collection of data relating to  
27 regional and general conditions entering into and  
28 influencing the character and the extent of the  
29 improvements necessary to accomplish the storage,  
30 control, transportation, treatment, conservation, and  
31 equitable distribution to the greatest public  
32 advantage of the storm water, floodwater, and normal  
33 flow that is stored and controlled, and to accomplish  
34 or carry out any of the other purposes of this Act. The  
35 authority shall request an amount it considers  
36 sufficient, and may make the necessary agreements with  
37 the party providing the funds, and may appropriate the  
38 amount of the estimated equitable contribution of the  
39 costs of developing essential engineering data.

40 Revised Law

41 Sec. 8508.0253. POWER TO ISSUE BONDS OR OTHER OBLIGATIONS.

42 (a) For the purpose of carrying out any power provided by this

1 chapter, including the payment of the expenses of preparing the  
2 master plan and the payment of engineering and other expenses, the  
3 authority may issue bonds or other obligations in one general class  
4 secured by a pledge of all or part of the revenue accruing to the  
5 authority from any source, including the revenue received from:

- 6 (1) the sale of water or other products;
- 7 (2) the rendition of services;
- 8 (3) tolls; and
- 9 (4) charges.

10 (b) The obligations must be authorized by a board  
11 resolution. (Acts 69th Leg., 1st C.S., Ch. 3, Secs. 48(a), (b)  
12 (part).)

#### 13 Source Law

14 Sec. 48. (a) For the purpose of carrying out  
15 any power or authority provided by this Act, including  
16 the expense of preparing the master plan and the  
17 payment of engineering and other expenses, the  
18 authority may issue its bonds or other obligations in  
19 one general class secured by a pledge of all or part of  
20 the revenues accruing to the authority, including  
21 without limitations those revenues received from sale  
22 of water or other products, rendition of service,  
23 tolls, charges, and from all other sources other than  
24 ad valorem taxes.

25 (b) The bonds shall be authorized by resolution  
26 of the board, . . . .

#### 27 Revisor's Note

28 (1) Section 48(a), Chapter 3, Acts of the 69th  
29 Legislature, 1st Called Session, 1985, refers to  
30 carrying out any "power" or "authority" provided by  
31 that act. The revised law omits "authority" for the  
32 reason stated in Revisor's Note (1) to Section  
33 8508.0114.

34 (2) Section 48(a), Chapter 3, Acts of the 69th  
35 Legislature, 1st Called Session, 1985, authorizes the  
36 authority to issue "bonds or other obligations."  
37 Section 48(b) of Chapter 3 provides that the "bonds"  
38 must be authorized by a board resolution. The revised  
39 law provides that the "obligations" must be authorized  
40 by a board resolution for consistency of terminology.

1           (3) Section 48(a), Chapter 3, Acts of the 69th  
2           Legislature, 1st Called Session, 1985, authorizes the  
3           authority to issue bonds or other obligations that are  
4           secured by a pledge of the revenue accruing to the  
5           authority from any source "other than ad valorem  
6           taxes." The revised law omits the quoted language as  
7           unnecessary because Section 1(c), Chapter 3, Acts of  
8           the 69th Legislature, 1st Called Session, 1985,  
9           revised in this chapter as Section 8508.0205,  
10          prohibits the authority from imposing a tax or  
11          creating debt payable from taxes.

12          (4) Section 48(d), Chapter 3, Acts of the 69th  
13          Legislature, 1st Called Session, 1985, provides that  
14          obligations may be issued in "more than one series, and  
15          from time to time, as required for carrying out the  
16          purposes of this Act." The revised law omits "more  
17          than one series" because it duplicates a provision of  
18          Section 1201.022, Government Code. Throughout this  
19          chapter, the revised law omits law that is superseded  
20          by Chapter 1201, Government Code, or that duplicates  
21          law contained in that chapter. Chapter 1201,  
22          Government Code, applies to authority obligations  
23          under Sections 1201.002 and 1201.003, Government Code.  
24          The revised law omits "from time to time" because the  
25          power to issue obligations implies the power to do so  
26          at any time. The revised law omits "as required for  
27          carrying out the purposes of this Act" because Section  
28          48(a), Chapter 3, Acts of the 69th Legislature, 1st  
29          Called Session, 1985, revised in this section,  
30          authorizes the authority to issue obligations for the  
31          purposes of the act. The omitted law reads:

32                   (d) Obligations may be issued in more  
33                   than one series, and from time to time, as  
34                   required for carrying out the purposes of  
35                   this Act. . . .

1                                    Revised Law

2            Sec. 8508.0254. REFUNDING BONDS. (a) The authority may  
3 issue refunding bonds to refund outstanding obligations issued  
4 under this chapter.

5            (b) Refunding bonds may be issued in the manner provided by  
6 Chapter 1207, Government Code. (Acts 69th Leg., 1st C.S., Ch. 3,  
7 Sec. 49 (part).)

8                                    Source Law

9            Sec. 49. The authority may issue refunding  
10 bonds to refund outstanding obligations issued under  
11 this Act. Refunding bonds may be issued by the  
12 authority as provided by Chapter 503, Acts of the 54th  
13 Legislature, Regular Session, 1955 (Article 717k,  
14 Vernon's Texas Civil Statutes), and Chapter 784, Acts  
15 of the 61st Legislature, Regular Session, 1969  
16 (Article 717k-3, Vernon's Texas Civil Statutes). . . .

17                                  Revisor's Note

18            (1) Section 49, Chapter 3, Acts of the 69th  
19 Legislature, 1st Called Session, 1985, refers to  
20 Chapter 503, Acts of the 54th Legislature, Regular  
21 Session, 1955 (Article 717k, Vernon's Texas Civil  
22 Statutes), and Chapter 784, Acts of the 61st  
23 Legislature, Regular Session, 1969 (Article 717k-3,  
24 Vernon's Texas Civil Statutes). Articles 717k and  
25 717k-3 were revised in 1999 as Chapter 1207,  
26 Government Code, and the revised law is drafted  
27 accordingly.

28            (2) Section 49, Chapter 3, Acts of the 69th  
29 Legislature, 1st Called Session, 1985, provides that  
30 authority obligations may be refunded in the manner  
31 provided by any other applicable law. The revised law  
32 omits the provision because any other law that permits  
33 the refunding of authority obligations applies by its  
34 own terms, and it is unnecessary to include an express  
35 statement of the applicability of that law in this  
36 chapter. The omitted law reads:

37                                  Sec. 49. . . . Obligations issued at  
38 any time by the authority also may be

1           refunded in the manner provided by any other  
2           applicable law.

3                           Revised Law

4           Sec. 8508.0255.   FORM OF OBLIGATIONS.   Authority obligations  
5   must:

- 6                   (1)   be in the form prescribed by the board;  
7                   (2)   be issued in the authority's name;  
8                   (3)   be signed by the presiding officer or a vice  
9   president;  
10                  (4)   be attested by the secretary; and  
11                  (5)   bear the authority seal.   (Acts 69th Leg., 1st  
12   C.S., Ch. 3, Secs. 48(b) (part), (c) (part).)

13                           Source Law

14                  (b)   The bonds shall be . . . issued in the name  
15                  of the authority, signed by the president or any  
16                  vice-president, and attested by the secretary.   The  
17                  bonds shall bear the seal of the authority. . . .

18                  (c)   The obligations shall be in the form  
19                  prescribed by the board, . . . .

20                           Revisor's Note

21                  (1)   Sections 48(b) and (c), Chapter 3, Acts of  
22                  the 69th Legislature, 1st Called Session, 1985, refer  
23                  variously to "bonds" and "obligations."   The revised  
24                  law refers to "obligations" for consistency of  
25                  terminology.

26                  (2)   Section 48(b), Chapter 3, Acts of the 69th  
27                  Legislature, 1st Called Session, 1985, refers to the  
28                  board's "president."   The revised law substitutes  
29                  "presiding officer" for "president" for the reason  
30                  stated in Revisor's Note (1) to Section 8508.0127.

31                  (3)   Section 48(b), Chapter 3, Acts of the 69th  
32                  Legislature, 1st Called Session, 1985, authorizes  
33                  facsimile "printed or lithographed" signatures and  
34                  seals.   The revised law omits those provisions as  
35                  unnecessary because the authorization for the use of  
36                  printed or lithographed signatures duplicates Section  
37                  1201.026(a), Government Code, which also provides that



1 public securities and interest coupons may be executed  
2 with manual or facsimile signatures. The omitted law  
3 reads:

4 (b) . . . If authorized by the  
5 board, the signatures of the president or  
6 any vice-president, and the secretary or of  
7 both may be printed or lithographed on the  
8 obligations, and the seal of the authority  
9 may be impressed on the obligations or may  
10 be printed or lithographed on the  
11 obligations.

12 Revised Law

13 Sec. 8508.0256. MATURITY. Authority obligations must  
14 mature not later than 50 years after the date of their issuance.  
15 (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 48(c) (part).)

16 Source Law

17 (c) The obligations . . . shall mature serially  
18 or otherwise and not to exceed 50 years from their  
19 date, . . . .

20 Revisor's Note

21 Section 48(c), Chapter 3, Acts of the 69th  
22 Legislature, 1st Called Session, 1985, provides that  
23 authority obligations shall mature "serially or  
24 otherwise." The revised law omits the quoted language  
25 because it duplicates Section 1201.022(a)(1),  
26 Government Code.

27 Revised Law

28 Sec. 8508.0257. TRUST INDENTURE. Authority obligations may  
29 be further secured by a trust indenture with a corporate trustee.  
30 (Acts 69th Leg., 1st C.S., Ch. 3, Sec. 48(c) (part).)

31 Source Law

32 (c) . . . The obligations may be further  
33 secured by a trust indenture with a corporate trustee.

34 Revised Law

35 Sec. 8508.0258. ADDITIONAL OBLIGATIONS. A pledge of  
36 revenue may reserve the right, under specified conditions, to issue  
37 additional obligations that will be on a parity with or subordinate  
38 to the obligations then being issued. (Acts 69th Leg., 1st C.S.,  
39 Ch. 3, Sec. 48(d) (part).)

1                                    Source Law

2                    (d) . . . A pledge of revenue may reserve the  
3                    right, under specified conditions, to issue additional  
4                    obligations that will be on a parity with or  
5                    subordinate to the obligations then being issued.

6                                    Revised Law

7                    Sec. 8508.0259. ADDITIONAL PROVISIONS IN RESOLUTION  
8                    AUTHORIZING OBLIGATIONS OR TRUST INDENTURE. (a) The resolution  
9                    authorizing obligations or the trust indenture further securing  
10                   obligations may specify additional provisions that constitute a  
11                   contract between the authority and the owners of those obligations.

12                   (b) The board may provide for the additional provisions,  
13                   including a corporate trustee or receiver provided by the authority  
14                   to take possession of authority facilities in the event of the  
15                   authority's default in fulfilling the covenants. (Acts 69th Leg.,  
16                   1st C.S., Ch. 3, Sec. 48(f).)

17                                   Source Law

18                   (f) The resolution authorizing the obligations  
19                   or the trust indenture further securing the  
20                   obligations may specify additional provisions that  
21                   constitute a contract between the authority and the  
22                   owners of those obligations. The board may provide for  
23                   the additional provisions, including a corporate  
24                   trustee or receiver provided by the authority to take  
25                   possession of facilities of the authority in the event  
26                   of default on the part of the authority in fulfilling  
27                   the covenants.

28                                   Revisor's Note  
29                                   (End of Subchapter)

30                   (1) Section 48(c), Chapter 3, Acts of the 69th  
31                   Legislature, 1st Called Session, 1985, provides that  
32                   authority obligations may be in any denomination. The  
33                   revised law omits that provision because it duplicates  
34                   Section 1201.021(1), Government Code. The omitted law  
35                   reads:

36                                   (c) [The obligations] . . . shall be  
37                                   in any denomination or denominations,  
38                                   . . . .

39                   (2) Section 48(c), Chapter 3, Acts of the 69th  
40                   Legislature, 1st Called Session, 1985, provides that  
41                   authority obligations shall bear interest according to

1 law. The revised law omits that provision as  
2 unnecessary because any law that governs the bearing  
3 of interest by an authority obligation would  
4 necessarily apply on its own terms. The omitted law  
5 reads:

6 (c) [The obligations] . . . shall  
7 bear interest according to law, and . . . .

8 (3) Section 48(c), Chapter 3, Acts of the 69th  
9 Legislature, 1st Called Session, 1985, provides that  
10 authority obligations may be sold at a price and under  
11 terms determined by the board to be the most  
12 advantageous reasonably obtainable. The revised law  
13 omits that provision because it duplicates or is  
14 superseded by provisions of general law. Section  
15 1204.006, Government Code, provides that an issuer may  
16 sell public securities at any price. Section 1204.006  
17 applies to authority bonds under Sections 1204.001 and  
18 1204.002, Government Code. Section 1201.022,  
19 Government Code, as amended in 2001, provides that an  
20 issuer may sell public securities "under the terms  
21 determined by the governing body of the issuer to be in  
22 the issuer's best interests." The omitted law reads:

23 (c) [The obligations] . . . may be  
24 sold at a price and under terms determined  
25 by the board to be the most advantageous  
26 reasonably obtainable. . . .

27 (4) Section 48(c), Chapter 3, Acts of the 69th  
28 Legislature, 1st Called Session, 1985, provides that  
29 the board may make authority bonds callable before  
30 maturity at the times and prices prescribed in the  
31 bonds. The revised law omits that provision because it  
32 duplicates Sections 1201.021 and 1201.022, Government  
33 Code, which provide that a public security may be  
34 issued as redeemable before maturity and be payable in  
35 specified amounts and at specified times. The omitted  
36 law reads:

1           (c) . . . The board may make the  
2           bonds callable before maturity at the times  
3           and prices prescribed in the bonds, and  
4           . . . .

5           (5) Section 48(c), Chapter 3, Acts of the 69th  
6           Legislature, 1st Called Session, 1985, provides that  
7           authority bonds may be made registrable as to  
8           principal or as to principal and interest. The revised  
9           law omits that provision because it duplicates in  
10          substance Section 1201.024(a)(3), Government Code.  
11          The omitted law reads:

12                 (c) . . . the bonds may be made  
13                 registrable as to principal or as to both  
14                 principal and interest. . . .

15          (6) Section 48(e), Chapter 3, Acts of the 69th  
16          Legislature, 1st Called Session, 1985, provides that  
17          Chapter 656, Acts of the 68th Legislature, Regular  
18          Session, 1983 (Article 717q, Vernon's Texas Civil  
19          Statutes), applies to the authority, and that the  
20          authority is an "issuer" for the purpose of that  
21          chapter. Article 717q was revised in 1999 as Chapter  
22          1371, Government Code. By application of Section  
23          1371.001, Government Code, Chapter 1371 applies to the  
24          authority and the authority is an "issuer" for  
25          purposes of that chapter. It is therefore unnecessary  
26          to include an express statement of the applicability  
27          of Chapter 1371 in this subchapter. The omitted law  
28          reads:

29                 (e) The authority is an "issuer" for  
30                 the purpose of Chapter 656, Acts of the 68th  
31                 legislature, Regular Session, 1983 (Article  
32                 717q, Vernon's Texas Civil Statutes), and  
33                 that law applies to the authority.

34          (7) Section 50, Chapter 3, Acts of the 69th  
35          Legislature, 1st Called Session, 1985, requires the  
36          authority to deliver bonds it issues to the attorney  
37          general for examination and approval. That section  
38          also provides that if obligations are to be issued to

1 finance water-using facilities, before the attorney  
2 general approves the obligations the attorney general  
3 must be furnished a resolution from the Texas  
4 Commission on Environmental Quality certifying that  
5 the authority has the necessary water rights  
6 authorizing it to impound and appropriate the water to  
7 be used by the project. In addition, that section  
8 requires the attorney general to approve authority  
9 bonds if the bonds were authorized under law. Finally,  
10 that section provides that after approval the  
11 obligations must be registered with the comptroller  
12 and that after approval and registration the bonds are  
13 incontestable. The revised law omits those provisions  
14 as superseded by Chapter 1202, Government Code  
15 (enacted as Article 3, Chapter 53, Acts of the 70th  
16 Legislature, 2nd Called Session, 1987). Section  
17 1202.003, Government Code, provides for approval of  
18 bonds by the attorney general and requires the  
19 attorney general to submit the approved bonds to the  
20 comptroller for registration. Section 1202.005,  
21 Government Code, requires registration of the bonds by  
22 the comptroller. Section 1202.006, Government Code,  
23 provides that after approval and registration the  
24 bonds are incontestable and binding obligations.  
25 Chapter 1202, Government Code, applies to authority  
26 bonds by application of Sections 1202.001 and  
27 1202.003(c), Government Code. The omitted law reads:

28           Sec. 50. (a) After any bonds,  
29 including refunding bonds, are authorized  
30 by the authority, the bonds and the record  
31 relating to their issuance shall be  
32 submitted to the attorney general for his  
33 examination as to the validity of those  
34 bonds. If obligations are to be issued to  
35 finance in whole or in part water-using  
36 facilities, before giving his approval the  
37 attorney general shall be furnished a  
38 resolution from the commission certifying  
39 that the authority has the necessary water  
40 rights authorizing it to impound and

1 appropriate the water to be used by the  
2 project. . . .

3 (b) If the attorney general finds  
4 that the bonds have been authorized and  
5 . . . as provided by the constitution and  
6 laws of this state, he shall approve the  
7 obligations and . . . the obligations then  
8 shall be registered by the comptroller of  
9 public accounts.

10 (c) After approval and registration,  
11 the bonds and . . . are valid and binding  
12 and are incontestable for any cause.

13 (8) Section 50, Chapter 3, Acts of the 69th  
14 Legislature, 1st Called Session, 1985, details various  
15 procedures regarding approval of bond contracts and  
16 proceedings by the attorney general. The revised law  
17 omits the portion of Section 50 regarding the validity  
18 and incontestability of a contract the proceeds of  
19 which are pledged to the payment of a bond as impliedly  
20 repealed by Section 1202.006, Government Code (enacted  
21 as Section 3.002(d), Chapter 53, Acts of the 70th  
22 Legislature, 2nd Called Session, 1987). Section  
23 1202.006, Government Code, provides that after  
24 approval and registration of the bond, the bond and  
25 contract are not contestable for any reason. Section  
26 1202.006 applies to authority bonds by application of  
27 Sections 1202.001 and 1202.003(c), Government Code.  
28 The omitted law reads:

29 Sec. 50. (a) . . . If the  
30 obligations recite that they are secured by  
31 a pledge of the proceeds of a contract made  
32 between the authority and any public  
33 agency, a copy of the contract and the  
34 proceedings of the public agency  
35 authorizing the contract also shall be  
36 submitted to the attorney general.

37 (b) [If the attorney general finds  
38 that] . . . the contracts have been made [as  
39 provided by the constitution and laws of  
40 this state, he shall approve] . . . the  
41 contracts and . . . .

42 (c) [After approval and  
43 registration, the bonds and] contracts [are  
44 valid and . . . are incontestable for any  
45 cause.]

46 (9) Section 51, Chapter 3, Acts of the 69th  
47 Legislature, 1st Called Session, 1985, lists the  
48 entities for which authority bonds are legal

1 investments and provides that authority bonds may  
2 secure deposits of public funds of the state or  
3 political subdivisions. The revised law omits the  
4 provision relating to the eligibility of authority  
5 bonds to be considered as investments for various  
6 entities because it duplicates, in substance, Section  
7 49.186(a), Water Code. While Section 51 lists  
8 "guardians" and Section 49.186(a), Water Code, does  
9 not, Section 49.186(a) includes "fiduciaries," and a  
10 guardian is a fiduciary. The revised law omits the  
11 provision relating to the use of authority bonds as  
12 security for deposits of state funds as impliedly  
13 repealed by Section 404.0221, Government Code (enacted  
14 in 1995), which lists eligible collateral for deposits  
15 of state funds by the comptroller, and by Section  
16 404.031, Government Code (enacted in 1985 as Section  
17 3.001, Article 4393-1, Vernon's Texas Civil Statutes,  
18 and last amended in 2009), which provides for the  
19 valuation of that collateral. As to securing deposits  
20 of other funds, the provision is impliedly repealed by  
21 Chapter 2257, Government Code (enacted in 1989 as  
22 Article 2529d, Vernon's Texas Civil Statutes), which  
23 governs eligible collateral for deposits of funds of  
24 other public agencies, including political  
25 subdivisions, and permits those deposits to be secured  
26 by obligations issued by conservation and reclamation  
27 districts. The omitted law reads:

28           Sec. 51. (a) Authority bonds are  
29           legal and authorized investments for:

- 30                   (1) banks;
- 31                   (2) savings banks;
- 32                   (3) trust companies;
- 33                   (4) savings               and               loan
- 34           associations;
- 35                   (5) insurance companies;
- 36                   (6) fiduciaries;
- 37                   (7) trustees;
- 38                   (8) guardians; and
- 39                   (9) sinking funds of cities,
- 40           counties, school districts, and other

1 political subdivisions of the state and  
2 other public funds of the state and its  
3 agencies, including the permanent school  
4 fund.

5 (b) Authority bonds are eligible to  
6 secure deposits of public funds of the state  
7 and cities, counties, school districts, and  
8 other political subdivisions of the state.  
9 The bonds are lawful and sufficient  
10 security for deposits to the extent of their  
11 value.

12 Revisor's Note  
13 (End of Chapter)

14 Section 17, Chapter 276, Acts of the 85th  
15 Legislature, Regular Session, 2017, recites  
16 legislative findings regarding procedural  
17 requirements for legislation affecting the authority  
18 under the constitution and other laws and rules,  
19 including proper legal notice and the filing of  
20 recommendations. The revised law omits those  
21 provisions as executed. The omitted law reads:

22 Sec. 17. (a) The legal notice of the  
23 intention to introduce this Act, setting  
24 forth the general substance of this Act, has  
25 been published as provided by law, and the  
26 notice and a copy of this Act have been  
27 furnished to all persons, agencies,  
28 officials, or entities to which they are  
29 required to be furnished under Section 59,  
30 Article XVI, Texas Constitution, and  
31 Chapter 313, Government Code.

32 (b) The governor, one of the required  
33 recipients, has submitted the notice and  
34 Act to the Texas Commission on  
35 Environmental Quality.

36 (c) The Texas Commission on  
37 Environmental Quality has filed its  
38 recommendations relating to this Act with  
39 the governor, the lieutenant governor, and  
40 the speaker of the house of representatives  
41 within the required time.

42 (d) All requirements of the  
43 constitution and laws of this state and the  
44 rules and procedures of the legislature  
45 with respect to the notice, introduction,  
46 and passage of this Act are fulfilled and  
47 accomplished.